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MINUTE POLICE TALKS

BY

CAPTAIN THOMAS S. J. KAVANAGH

BOSTON POLICE DEPARTMENT

A
COMPLETE
POLICE MANUAL

REVISED EDITION

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Boston Police Department

MINUTE POLICE TALKS

by

CAPTAIN THOMAS S. J. KAVANAGH

BOSTON POLICE DEPARTMENT

The author of this book has been an instructor in the Boston Police School for over ten years, and has had almost thirty years of police experience. What is contained in this book is practically what is being taught at the present time in the Boston Police School.

There was a previous edition of this work in 1932, and it has been of so much service to those desiring more knowledge of police procedure, and of such help in promotional examinations, that a universal demand has been created for it. Therefore I am taking upon myself, with the publishers, the responsibility of again putting it in circulation for those officers who are always on the alert to improve their minds and their chances for promotion.

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Thomas S. J. Kavanagh

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FOREWORD

You are interested in "POLICE PROCEDURE" - otherwise you would not bother yourself with these talks. You want to know what your authority is, and how to go about your duties as a police officer. In the talks that follow, I am trying to give you a clue. No one can do more than that for you.

There has been considerable discussion as to how a young police officer should be instructed. Most superior officers can tell you what ought to be done, but they seldom tell you how to do it. You are usually left to find that out for yourself, with the result that you make inquiries and mistakes. These I am trying to eliminate as much as possible by these talks.

In all standard works on criminal law, it is hard for a police officer to find the information he desires, because they are usually written for lawyers, with their phraseology and from their viewpoint only. In the talks that follow I am trying to impart the simple rudiments of criminal law, with the duties of a police officer, and in so doing, I am talking from, and having in mind, police procedure only. In addition, I am giving my ideas of an "ideal policeman". So do not expect to find this a work of literary merit - nor does it come up to the standards of any writer on criminal law. In plain words, it is just one police officer talking to another, and giving him the benefit of his years of practical police work.

While I make no claim that these talks are perfect, yet, in making them up, I have consulted the works of many prominent criminal, police, and military law writers. In those chapters concerning common law crimes, I have used the U. S. Army Manual of Court Martial, 1916, as a guide, as that work is especially adapted for those who have had little training in law or court procedure. So what you may find of interest in these talks may be accepted as accurate enough for the needs of the average police officer.

If in writing these talks I have brought to you a better understanding of your duties as a police officer, if I have improved your efforts in apprehending criminals or in preventing crime, the object for which they were written will have been attained, and I shall be amply rewarded for the time and labor spent in compiling the information herein contained.

Thomas S. J. Kavanagh
Captain of Boston Police.

POINTS ON THE MAKING OF A GOOD POLICE FORCE

1. A police force must have superior officers, and all these officers must be thoroughly versed in all aspects of police procedure and, above all, fully competent to impart this knowledge to all other officers.

2. Contemptuous, shiftless, and incompetent men are the result of incapable superior officers.

3. Every police department should have a school for all grades, with up-to-date instructors who are willing to impart their knowledge and give help and encouragement to those needing instruction.

4. Many inefficient superior officers are made through the practice of promoting men to the higher ranks without any preparation or training for their new duties.

5. To have superior officers who can command is a blessing to any department. Only those who have this qualification should be made superior officers.

6. In the police department, things must be done right. Be sure you are right, then go ahead. When you do not know the right thing to do - do nothing.

7. No police department can be a success when manned by loafers. Every officer must be on the job 60 minutes out of each hour.

8. Observation is the most necessary qualification for a police officer. Without it he is useless to the department.

9. Keep a man on the same route always if he is doing his duty and getting results. Never shift men about indiscriminately unless there is a good reason for so doing - it never brings good results.

10. With most police officers, you do not have to worry whether or not they are pulling boxes - you know they are doing their duty; but with others it is almost necessary to tie them to the boxes.

11. To make a gentleman out of a man can only be accomplished by himself, God Almighty, or his parents. If they have failed, do not waste time trying to make him one in the police department.

12. Finally, educate all officers to believe the police business is a profession, not a job. The superior officer who thinks he is above the average patrolman and should ignore him does not rank very high either as a policeman or a superior officer.

PART I

POLICE PROCEDURE

ARREST

AND

CRIMINAL LAW

Chapter One

THE POLICE OATH AND OBEDIENCE

It has been said, "The most ideal place to live would be a place where one could do what he liked, say what he liked, think what he liked, and go where he liked." This would be an ideal "Democracy". Unfortunately, when more than one individual inhabited this wonderful place, all would immediately ch change, as the newcomers would want to do what they liked, say what they liked, etc., and this would cause friction between the inhabitants, as each believes that his own particular rights should have no interference. So, for this reason, if there is going to be peace in the community, certain rules and regulations must be recognized by all.

These simple truths were recognized by our earliest ancestors, and as civilization grew along through the ages, rules and regulations - called laws - were found necessary to govern and control man in practically every effort he has made in his upward climb towards the ideal civilized state. In addition to putting these laws in effect, it was quickly recognized that to make these laws effective, some punishment must be provided for those who failed to keep or live up to them. As the laws were not self-enforcing, necessity demanded that certain officials be appointed, charged with their direct enforcement.

As the peace of a community is preserved through the fear in the minds of those who would break the laws (that they are sure to be arrested and punished), the restraining influence is of course proportionate to the certainty of arrest and punishment. So almost every state of civilized society found it necessary to appoint certain officers charged with the duty of discovering and arresting offenders and enforcing the laws.

In the earliest times, the enforcing officers were usually soldiers who, in most cases, were only interested in the collection of taxes and the upholding of the rights of the ruling classes. Then again, it gave the military too much power - so it was soon taken away from them and given to certain civil authorities appointed by the government.

It was natural for the earliest settlers in this country to use the particular system of protection then in vogue in their mother country. So we find the "Watch and Ward", Constable, Sheriff, etc., maintained in this country from its very beginning, because the majority of our settlers came from England. From this was gradually developed something like our present police departments, usually not uniformed, but wearing some kind of distinctive dress or mark showing authority to act in this office. As they became better organized, the present type of police officer came into existence, with his particular uniform and the various superior officers and ranks.

The modern city police department has grown to such magnitude and importance that it has become the most necessary of all the various units that make a city government possible. This is so much so that I doubt our city government could function or exist without "The Force".

It has become of such importance that often the whole aspect of a city is judged by the courtesy, efficiency, and appearance of the police force. Generally speaking, the police officer is the first public official that the stranger comes in contact with and his opinion of the city, in many cases, is formed by the courtesy, conduct, and official bearing of such an officer.

Your city relies in a large part on its trade with outsiders for its very existence. We want and invite them here. We are anxious to get their business and trade. So you can readily see that all police officers should ever make it their duty to see to it that no ungentlemanly or discourteous act on their part will ever be the cause of any person getting the wrong impression of the city, and that they never act in any manner detrimental to the welfare of their city.

The calling of a policeman is a profession - a very useful and responsible one - with duties, tasks, and obligations so numerous and of such importance that no young man should ever try to become an officer unless he is ready to meet these obligations, and has a special aptitude or vocation for the position.

Before you became a police officer you took a solemn oath to uphold the Constitution of the United States and of the Commonwealth of Massachusetts. Included in this oath, you promised "To faithfully and impartially discharge and perform the duties incumbent on you as a police officer of the City of Boston". Certainly you should have considered these matters well before you took this oath as it is a serious matter - and you are bound strictly to do your duty in accordance with this oath. Under these conditions, the people have a right to the best that is in you. Like the soldier who bears arms in the defense of his country, so it is a solemn honor when you don the uniform of a policeman to protect and safeguard the public whom you serve. So you must ever be ready to live up to the responsibilities of your oath, and to act where the safety, welfare, or comfort of the citizens of our city is at stake.

The Army, all large industrial corporations, and, in fact, any kind of business which employs help, must have bosses or leaders whose duty it is to see that those under them are performing their duties. The police department, too, must have superior officers or leaders assigned to the different divisions and units to supervise, direct, and govern those under their command. As they are bound by the same rules and regulations, by the same oath as you are, it is your duty and you must obey all orders given by them that pertain to police duty or law enforcement.

The first duty of a police officer is prompt, unquestioning "obedience". It is the cement that holds the department together. Without it "The Force" cannot exist. If each officer carried out his own particular wishes, without consideration of the department as a whole, there would be no organization and "The Force" would soon fall to pieces. The most able commissioner or superintendent can do little for efficiency without obedience. So the manner in which orders are obeyed shows the actual condition of the department as one of real efficiency or the reverse, where some drastic action is sure to be necessary. The better and more punctually orders are obeyed, the surer will the end for which they were given be attained, which is bound to result in police efficiency.

Prompt and unquestioning obedience is often difficult because it permits no delay, but even so - it is required of all. You may or may not know why certain orders are given; the reason may never be explained to you; perhaps you may know a better way to do it than the directions given - yet you must obey. It is hard sometimes to obey orders given in a short, harsh manner, but this makes no difference. This is a sign of the quality of your obedience. In the police department nothing is ever soft or uncertain. You must always be ready for prompt and efficient action, and whether your superiors are fit or unfit, their orders must be obeyed.

Remember that "The Force" is a militant unit, and in its fight against crime it must be controlled by organization alone. Persons who might otherwise be inclined to commit crime are held in check by the mere knowledge that a large body of men is organized to prevent any breach of the mandates of law and order.

The following are qualities of a well-disciplined officer:

(a) You must be obedient. This cannot be too often repeated.

(b) You must have faith in your superior officers. Distrust is the dry-rot of police efficiency.

(c) You must obey orders cheerfully. A superior wants undivided and cheerful support. He has no time to inquire into your personal feelings in the matter.

(d) Behavior. You are expected to be at your best while on police duty. Intemperance, smoking while on duty, loafing, or loose behavior are all forbidden by the rules and regulations of the department, which your oath as a police officer commands you to observe.

(e) Honor. You all know what this means. You cannot cut any corners in being honorable. Be honorable and respectable.

(f) Attention and response. This means you must always be on the alert, and whether a superior officer is present or not, you will do what he has told you or expects you to do.

So, good discipline is obedience to two kinds of orders. What is demanded of us by our oath and the law, and what is commanded by our superiors.

When you are ordered to do a certain thing by those in authority over you, you must do this as ordered, not the opposite or some half-completed or partial arrangement.

You are expected to observe, in obeying such commands, every other consideration involved in the order. It is not necessary for the superior to explain all the rules and regulations by which you are bound. You are expected to know them and to know what to do. Do everything just as you are ordered to the best of your ability.

So, while always obeying, you are acting knowledge, will, and independence. Discipline elevates you to a high grade of civilization, rather than degrading you to the lower levels.

The proof of this is that CITIZENS WILLINGLY OBEY YOU.

There is no greater advantage to the department than the confidence of the public. Good citizens respect police authority. They know the policeman represents that system of internal regulations of a state or municipality by which it is sought, not only to preserve public order or prevent crime, but also to establish between citizen and citizen those rules of good morals and behavior which are calculated to prevent conflict of rights, and to insure to each citizen the uninterrupted right of liberty and pursuit of happiness, provided these rights in no way interfere with a like enjoyment of rights by others.

"The Force" exists on organization, built up and sustained by the individuals who make up its personnel. A police department governed by loose discipline, containing men who are dissatisfied, grumblers, or slack in appearance or behavior, will never be able to accomplish much. The Boston Police have always borne an excellent reputation and on many occasions have been praised for their exceptional spirit of obedience and discipline. It is the duty of all officers to do all in their power to make this continue so. An exemplary obedience will bring this about - which should be a matter of personal pride to every patrolman or superior in the department.

Police training requires that all policemen be valiant, polite, and mannerly. The true policeman learns how to obey and how to command, when to be silent and when to speak. The policeman who can obey orders can give orders, and if he has these qualities, his success as an officer is practically assured.

As prevention of crime and the protection of life and property are the primary objects of an efficient police force, all efforts and instructions should be given with these objects in view. All officers must remember that they are part of an organized unit - a thin white line fighting against all the cohorts of crime and disorder, and the fact that this is a disciplined organization, working together for the efficiency of the department, is the secret of all its success in combatting crime.

The excellence of all police organization or the separate units contained therein will be judged by the manner in which the individual patrolman carries out orders of his superiors. If they are strictly and impartially adhered to, it is bound to result in an absence of crime and in the protection of life and property - which is the essence of police efficiency.

Finally, remember that the value of any officer as a policeman depends in a large part on how much attention he gives to his duties and how he carries out the orders of his superior officers. A man may have all the ability necessary to make him an excellent officer, but if he fails to use this ability, of what use is he as a police officer? It is the manner in which he uses the ability he is blessed with that determines his value to the police department.

Chapter Two

COURTESY AND DEPORTMENT

There is hardly ever a general order issued on any occasion of importance, such as a parade, convention, or other large gathering, where there is likely to be a large number of people or strangers in our city, that some reference is not made to the subject of courtesy and deportment of police officers on duty by the commissioner or superintendent.

Therefore, this subject is one of supreme importance - not only of itself alone, but on account of its influence on the spirit, morale, discipline, and everything worthwhile in the police department. It is a subject little understood outside the police department and not enough nor as well as it should be amongst police officers.

Courtesy in police life does not differ in any essential from similar practices in everyday life outside the department. We salute acquaintances by saying "Good Morning" or "How Are You", or some similar form of salutation. We bow and take off our hats to our lady friends. We take off our hats indoors, in the presence of ladies and older persons. We always say "Yes Sir", "No Sir", or "Yes Madam" or "No Madam" in holding conversation with either sex.

Why should we do these things? Because they are indicative of good breeding, and distinguish the gentleman from the boor. Courteous habits are of distinct advantage to a police officer in his dealings with the public. People seldom do favors, nor will they help him in his duties, if they can avoid it, when they know he is an uncivil or discourteous officer. No matter how competent he may be, no one wants him around if he is boorish, uncivil - a grouch.

Rule 36, Sect. 9 states that a police officer, when passing or addressing any superior officer or officer of rank, shall salute in the manner prescribed by the U. S. Infantry Drill Regulations. This means that the subordinate shall salute first and the superior or officer of rank shall return it.

Some police officers believe that the military salute is a form of humiliation or subservience of one man to another - a ceremony out of place in the police department among police officers. The police officer who sees any such significance has never known the pride that military men take in the exchange of this greeting.

The physical act of saluting is anything but "humiliation". With heads up, each man looks the other in the eye. Surely, there can be no sign of humiliation between those who greet each other in this manner, especially if the subordinate must salute first and the superior is bound to return it. So all in all, it is nothing but an exchange of salutes - a form of greeting between comrades, showing mutual confidence and respect for each other.

The attitude of every officer in approaching citizens is of extreme importance to the police department. Firmness and courtesy will always arouse respect, while insolence and unreasonable use of power will cause a feeling of resentment against the police for years to come. Always say, in addressing citizens, "What can I do for you?" - rather than "What do you want?". Some officers are ever ready when a complaint is made to them to say "This is a civil matter. There is no cause for complaint here. Why don't you hire a lawyer?". It is better to say, "I will investigate the matter", and if, after an investigation, you find it is not a police matter, tell him so, and at least he will be satisfied that you tried to do something for him. Don't get into the habit of continually turning people down. They resent it and do not forget it.

The police rules state the following: Rule 36, Sect. 1: The police must be quiet, civil, orderly, and moral in their conduct, character, and habits. In the performance of their duties, they must be attentive and zealous, control their tempers, and exercise the utmost discretion. They must at all times refrain from harsh, violent, coarse, obscene, and profane language; when asked a question they shall not answer in a short, careless manner, but with all possible attention and courtesy, at the same time avoiding as much as possible entering into unnecessary conversation. They shall, when in uniform, keep their numbers in sight, and in a respectful manner give their names and numbers to all persons who inquire.

A policeman is a servant of public justice and he will serve best, who serves with uniform, unabating, and unqualified courtesy. It costs nothing to be courteous, and no one ever lost a cent by being uniformly courteous. It deals a reward in self-satisfaction and public approval that is beyond mere dollars and cents. He who is courteous is always kind and humane.

Policemen on post at street intersections must have the patience of angels, but these officers, if uniformly courteous, often lessen their own burdens and gain the hearty support of those who drive or pass on foot over their posts. These officers, by paying particular attention to elderly and feeble persons, young children, women, and strangers, and by being uniformly courteous to all, soon gain the confidence of everyone with whom they come in contact - which will prove a valuable asset to any officer in the discharge of his duties.

Public officials, such as the Governor, the Mayor, Legislators, Court Justices, heads of departments of the city or state - whether elected or not - are representatives of the people and, as such, they are entitled to special attention or respect within reasonable limits.

In your dealing with the public, always try to be impartial, especially in labor disputes. You must preserve the public peace and tranquillity, but be extremely careful not to favor either side in the controversy. At parades, public gatherings, or labor strikes, where there are a considerable number of people present, never lay your hands upon or jostle any person who is obeying the orders given. Such orders should be given with courtesy to those citizens who are peaceful and inoffensive.

The "Police Force" is often favorably or unfavorably judged by the actions of its individual members. Persons favorably impressed by some act of kindness or courtesy will judge the whole department accordingly. Whether on duty or not, on his route or in reserve, or even at home, the real officer will always conduct himself in an exemplary manner. All officers should realize that while in uniform they are the target of the eyes of the public, and if they do not act in a gentlemanly manner they will be quickly observed. Never do anything that will attract attention unless it is necessary for a police purpose. Officers riding in uniform on street cars or elevated trains must be careful to extend every courtesy. They should never remain seated while citizens are standing. In getting in or out of such trains or cars, do not push or jostle. Be careful not to cough in anyone's face, to chew tobacco or gum, to spit on the sidewalk, talk too loudly or too much. Be a gentleman. Mind your own business and affairs. Do not interfere with or criticize the business of people on your route, unless it is something that requires police action.

The Police Rules and Regulations forbid you to discuss matters of police importance with anyone - police officers or not - in public, unless in the investigation of crime. Be too busy with your own affairs, patrolling your route or not, to take part in any exchange of cheap, vulgar, or lying talk concerning yourself, your brother officers, citizens, or the department in general. Remember, a reputation is easily blasted or lost by such talk, and not easily recovered after the damage is done. No good policeman ever comes under the category of a "gossip".

Home life is the best indicator of anyone's breeding. Courtesy and respect must begin in the home. Never treat your wife or children with anything but courtesy and respect. Teach them to act the same with you, and always live up to the mandates of decency, quietness, and good order.

Finally, everything that has been said in this talk could be covered by the "Golden Rule". "Do unto others as you would have them do unto you." Keep this rule in mind in all your dealings with others. Live up to it and your friends will be many and you may be sure to have the approval of all your superior officers, with the knowledge that you have one of the most important qualifications for a good officer.

"THERE IS SO MUCH GOOD IN THE WORST OF US
AND SO MUCH BAD IN THE BEST OF US,
THAT IT LITTLE BEHOOVES ANY OF US
TO TALK ABOUT THE REST OF US."

Chapter Three

PHYSICAL CONDITION

Police officers are servants of public justice and, as such, they are charged with a solemn responsibility. In the performance of your duty in protecting life or property, you may be called upon at any time or place to test to the last extremity of your endurance or your keenest judgment. So you can readily see that physical fitness and mental alertness are necessary qualifications for the up-to-date police officer.

Generally speaking, physical fitness and mental alertness are like your club and revolver, in that these articles are furnished the officer - but his physique and intelligence are unlike the articles just mentioned in that physical and mental endowments can be rarely acquired. These gifts must never be lost through intemperance and excesses, for once they are lost or cut down they cannot be replaced by requisition or purchase.

A broken club, a torn uniform, or a useless revolver can be replaced, or they may never be used and still never depreciate - but physical and mental inactiveness are sure to cause a breakdown of either health or the brain. Nature gives us a splendid body and a keen mind, but even nature cannot restore either when dissipation and excesses have lowered them into the dirt of ruin, disease, death, and the grave.

When you took your physical examination for the police force you may not have realized it, but you took and passed one of the most strict examinations given where a physical test is required. You could consider yourself in perfect health. If you stopped to consider - out of a hundred persons picked indiscriminately from the ordinary walks of life - you would be surprised to know that ninety out of the hundred could not pass this test. So your physical condition is something to be proud of, but unfortunately, the average person places little value upon good health until he has lost it. Then, and often when it is too late, he realizes the value of it.

For some foolish reason, many police officers believe that the model police officer should weigh 200 pounds or over. If an officer is over 6 feet tall, there may be some excuse for him in weighing this much. However, when you took your physical examination, you know that you would never have been able to pass high enough in your strength test to be appointed if you were not down fine, and not carrying any excess poundage. Do not let the fact that you are down fine worry you. Most young officers gain ten or fifteen pounds in a few months after appointment, due to being out in the open air and due to the change of occupation. Let this suffice, and be especially on your guard against any exceptional increase in weight (obesity), the forerunner of disease, and often an early grave.

You came into the department in perfect health. It is your duty to yourself and the service to maintain this desirable condition unchanged except for the better, if it is possible to do so. If you are in good health, it is easy to continue so. Three things are necessary for good health - exercise, proper rest, and proper food. These things are all within the reach of every officer.

The most beneficial exercises for you may be obtained by plain labor or work, recreation or games, and simple calisthenics. If your duties keep you out in the open with plenty of walking this, with ordinary house chores, such as chopping wood, mowing the lawn, etc., and a few of the exercises learned in the police school, will be enough to keep you in the desired physical condition.

On account of the way police duty is divided up, it is more often necessary for the young officer to do night duty, and at irregular times, but it is generally possible for him to get at least eight hours sleep in twenty-four, which is a requirement for good health.

The irregularity of meal hours is another bad feature for the night officer, but still more dangerous is the bad habit - especially amongst the younger officers - of eating too often and too much. Many officers are always on the lookout for a chance to eat - chiefly fruit, pastries, candy and the like - without much regard to quality rather than quantity. A little care in this matter, remembering it is far better to bring a small lunch, if only a sandwich, from home, rather than taking chances on the none too reliable restaurants on your route, will result in less stomach and digestive disorders.

The majority of police officers are foot patrolmen, and in a tour of duty spend many hours on their feet. This, with a natural increase of weight, will in many cases cause the feet to spread and often result in foot troubles if care and attention are not paid to this important matter. The primary cause of most foot troubles is ill-fitting or worn-out shoes. Shoes are the most important consideration for the feet, and we find many officers continually trying out some new-fangled style of police shoes, with arch supports, etc., and finally discarding them for something more sensible. Just remember - all that is necessary in shoes is that they should be of good quality, plenty wide enough to allow for stretching and expanding of the feet, with a heel large enough to extend under and give support to the heel and ankle of the foot. Get away from wearing fancy-toed, patent leather, or cake-eater shoes, and you will have little trouble with your feet. If there is something wrong with your feet and you cannot account for it yourself, consult a chiropodist or a foot specialist.

Never report for duty if you are sick and unfit for service. Home is the place for anyone who is sick, and this applies to the sick policeman. You cannot be right and attend to your duties properly if you are sick. Whenever some officers are found violating the rules or regulations of the department, they offer the time-worn excuse that they were sick or taking some medicine that was the cause of their dereliction. A police officer is expected to be at his best at all times, and the public is relying upon you. An officer on duty might at any time be called upon to perform the most strenuous or nerve-trying act of his whole police career. To say you are sick and unable to perform your duty at such a time would certainly be a tame excuse, and will merit severe censure, if not immediate dismissal from the department.

The irregularity of a police officer's living conditions and his continual exposure to the different kinds of weather, whether hot or cold, wet or dry, requires him to be in almost perfect physical condition. It is not for him to be only healthy - his profession demands that he possess more than the average amount of muscular strength and endurance in addition to good health.

With robust health as a primary qualification, and the knowledge that he is the possessor of more than the average endurance and strength, he should learn to use both to the best advantage. By so doing he is bound to develop self-reliance, a physical quality that induces men to dare, because of their consciousness of it.

Intelligence, activity and attention give birth to "smartness", which is the physical expression of mental alertness. All these are essential for police discipline, as they tend towards self-respect, cleanliness, neatness, and graceful carriage - which are qualities found in all good policemen.

There are two great dangers against the health, strength, mental alertness, and everything worthwhile in the police department - intemperance and immorality. These two vices have ruined nations, broken up families and communities, and are rife with danger to our police department.

At times heavy trials await the police officer; many temptations will be thrown at him to try his virtue; but if he is a man and stands the ordeal, his career in the police department will prove a school of training for all time.

Intemperance and immorality, it is true, are of a different nature, but, generally speaking, they almost always go together. If a man keeps away from one, he generally does the same with the other, and if he is an addict to one, he is easily led into the other.

On entering the department, most policemen said they were total abstainers. Do not let the police department be the cause of your taking your first drink. If you are an abstainer, it is better to remain so, as there will be no occasion in the police department that will call for you to use liquor. Alcohol is the greatest enemy of the nation; its results are far more dangerous than any famine or pestilence. Hospitals, insane asylums, and prisons are filled with its users and its inheritance reaches out for generations to come. It is a habit that is easily formed, and often becomes a necessity - preying on a man's vitality, soon reducing him to a pitiful wreck - an object of scorn - the drunkard.

These excesses unfit a man for duty. Trials and punishment are the sure results of neglect of duty. The spirit of a man is easily broken by punishment and often gets him into a rut where he cannot recover himself.

It is a physician's job to take care of sick persons. When you are sick and it is apparent that you are the victim of some disease, go at once to some competent physician. Do not take chances on self-treatment. By so doing, you may do harm to yourself, and at the same time be a source of danger to all with whom you come in contact. The real danger time for transmitting a disease to others is generally at its beginning, and often before you are satisfied that you are really sick. For your own protection and the protection of those about you, it is necessary that you get medical treatment right away, especially when you have a cold, headache, diarrhea, sore eyes, or a rash on your body.

Nearly all acute diseases and most chronic ones are caused by harmful bacteria or other minute organisms, called "germs", gaining an entrance into the human body. These germs are alive and so small that they are invisible to the human eye, and can only be detected through a powerful microscope. The water we drink and the air we breath may contain millions of these germs, if we come in contact with them under unhygienic conditions.

The most common ways in which disease-producing germs get into the system are through the mouth, by eating food, drinking water, or other liquids which contain disease germs. Care must be taken in putting the fingers or other objects into the mouth which have been soiled or have been in contact with disease germs. Diseases acquired in this manner include typhoid fever, para-typhoid fever, cholera, dysentery, and diarrhea.

Diseases such as pneumonia, consumption, influenza, scarlet fever, measles, mumps, tonsilitis, and meningitis are commonly caused by breathing into the lungs disease germs that live in the air and have been cast off by persons suffering from these particular diseases. These persons, when they talk, cough, or sneeze, throw off from their noses and mouths a fine spray that contains bacteria which infect the air, and especially those near them.

Another source of danger is touching persons who are sick or objects that have been in contact with sick persons and thus getting onto the skin germs which cause contagious diseases. Diseases that come under this heading are venereal diseases, small pox, chicken pox, ringworms; also body lice, crabs, head lice, and itch - though these are not caused by germs. These maladies may be conveyed by sick persons who soil their hands, bedding, clothing, and other objects with any discharge from the nose, mouth, or bowels - and this, in turn, is introduced into your system by your coming into contact with the germs and rubbing your hands against these objects and then putting your hands to your nose or mouth. So you can see the necessity of continually washing your hands, especially at meal times.

Germs, after they are discharged from a sick person and get on some object, may live for some time and be a source of danger to others.

Keep away from sick persons unless it is your duty to take care of them, as a police officer.

Do not drink from a glass or cup that is used by others. Use a bubbling fountain if possible.

Be careful that the restaurants, lunch rooms, or other eating places that you frequent are clean.

Bathe frequently, wash your hands thoroughly before eating, and after a visit to the toilet - thus eliminating germs that may have gotten on your hands and into the food you eat and from this into your system.

When your clothing or shoes get wet, change them as soon as possible. These are common causes of colds or worse diseases.

You may think what has been said in the preceding paragraphs is a trifle far-fetched, especially for men of your intelligence, but I have in mind that there is no class of persons more exposed to contagion and disease than the police officer. We are continually handling sick or disabled persons. We are constantly in contact with people from the lowest strata of society, often suffering from the most loathsome kinds of disease. Too often cases have happened where the officer came in contact with persons of this character and contracted a serious ailment - or what is more often the case - transmitted it to some innocent member of his family by bringing the germs home on his person. Certainly officers must see the necessity of having these facts brought to their attention.

Good health is a blessing, therefore continually guard it and you will find police discipline a steadying influence. In your daily life be temperate in all things, take the admonishing of your superior officers as a parent-like influence and the advice of your brother officers with a feeling of comradeship and friendship and you will be able to conquer any temptation that may come your way.

Chapter Four

THE POLICE OFFICER ON PATROL

In accepting the position of a police officer, you became an executive officer of the criminal laws and ordinances of the city and state, also a conservator of the public peace. So you must never forget that on the standpoint of where you commence and the course you pursue depends, not only the welfare of the community, but the credit of the department, as well as your own success as an officer and a man.

Remember that character is one of the greatest powers in this world, for it produces men of excellence, industry, integrity, high principle, and honesty; hence, men who possess these qualities make our best police officers. Your character is your capital. Deal honorably with all persons and hold your word sacred, no matter when, where, or to whom given.

When you are assigned to a route, remember that you are responsible for all criminal matters that happen on it. Therefore you cannot afford to play the loafer on it, nor lounge in doorways or on corners, nor lean against posts or buildings. Make it your business to know what is going on in every part of it. As far as practicable, without any unnecessary interference, let no person or circumstance of police importance escape your notice. Always be able to give information respecting any matter of importance occurring on your route. Learn to know the people doing business or residing on your route and protect their property; make yourself useful and aid them in their lawful pursuits; so that, by an upright and straightforward course and close attention to duty, you will merit the good will of all citizens.

Be careful in the pursuance of your duty, as much as possible, to avoid laying yourself under special obligations to anyone. You know not how soon your duty may demand that you act in opposition to some individual interest and if you are under no obligation to him, you can feel safe in doing your duty without any qualms of conscience.

Lend a willing ear to all complaints made to you in your official capacity. The most unworthy have a right to be heard, and a word of comfort to the afflicted, or advice to the erring, costs you little and may do much.

In ordinary cases, where you find yourself in a position of not knowing exactly what to do, it is better to do too little than too much; it is easier to excuse moderation than excess. If an act of great violence occurs, secure the offender the first possible moment, as delay increases his chance of escape. There are always persons present ready to help care for the injured party, so don't worry about what is to become of him, no matter how badly he is hurt or injured.

Whenever it is necessary to make an arrest and you attempt it, do not fail, but use no more force than is necessary to overcome the resistance of the prisoner, to protect yourself, and to effect the arrest.

If you have a prisoner in custody, take hold of his coat sleeve, and keep him in front of you with your shoulder just behind his. If you have reason to believe your prisoner will fight or attempt to get away, put your twisters or handcuffs on him. Do not trust a prisoner behind you, for this is an open invitation for him to escape or injure you, and bystanders may think, if you are in civilian clothes, that you are the criminal, being in his place. If an arrest is necessary, so is caution. Be careful.

No officer is a success or efficient in the execution of his duties unless he understands the requirements of the laws and ordinances. Spare no pains in posting yourself in these matters. Recollect that by virtue of your police powers, you can act in criminal matters only, and every officer should have enough knowledge of civil law to distinguish between the two.

School yourself on all occasions to keep perfectly cool. Maintain a perfect control of your temper, come what will. One who can govern himself can govern others. Never degrade your position by placing yourself on the level of a drunken man or a man in a passion by allowing his abuse to get you in a passion.

Remember that in your official duties you are constantly and eminently exposed to the ten thousands of snares and temptations of city life. As you value the character of the department to which you belong - as you value your own character and happiness, or the fondest hopes of your friends - beware! Be ever on your guard. Be not deceived nor led into temptation.

Select your associates with care. A man is known by the company he keeps. You will learn to judge others and others will so judge you. In your relations with brother officers be amiable. You serve your city together. You have sworn allegiance to do so; therefore, you must be agreeable to one another. The "Esprit de corps" which you should strive to acquire when you don the uniform fosters brotherly love. If you notice a brother officer dejected, strive to console him, because sympathy is appreciated by all. If a comrade is in danger of doing something which might entail severe punishment, try to prevent him from so doing by persuading him of the evil of his ways. Counsel and instruct him. If you have an altercation with a brother officer, be ever ready to reconcile yourself with him as soon as possible.

Let promptness mark all your acts. Do not be the last man at roll call or at your post of duty, nor leave your post without being properly relieved or ordered so to do. Never keep a person waiting one minute over the appointed time. In whatever duty you engage in, set your mind and face the work; never while on duty suffer yourself to appear like an idle spectator. Make promptness a rule for yourself and require it of others.

Make it a rule to arrive in the station house at least twenty minutes before your tour of duty. Spend this time in going over your uniform, equipment, shoes, and metallic ornaments to see that they are clean and in a serviceable condition. Look over the bulletins, circulars, etc., posted in the guard room.

No officer should be allowed to leave the station without being shaved, his uniform pressed and clean, shoes shined, and his metallic trimmings burnished. He should be especially careful about the condition of his revolver, seeing that it is clean and in proper working condition, and also that he has the proper number of cartridges with it. Take pride in your appearance. No one wants to have conversation with a dirty or untidy policeman. No one would have confidence in such a man.

Be in the guard room at least ten minutes before "Roll Call", ready to "Fall In". The captain may have something he wants to tell you before you go out on the street, or the sargeant may have some papers or special directions to give you. Then again, you are sure to be on time - a most important feature for a good police officer. Don't be late.

During "Roll Call", answer your name when called by saying "Here". Pay strict attention to what is being said or read off, taking notes if necessary. If you are not assigned to any regular route, be sure you know where you are going and where the relieving box is.

On leaving the station house after "Roll Call", go directly or by the shortest route to your relieving box and relieve your partner on duty. If he is not there, post yourself in a conspicuous place so he can see you. If, after waiting a reasonable time, he does not appear, telephone to the station that you have not met your partner on post and be governed by the orders of the officer in command.

Always exchange any news or ideas concerning your route with your partners. Let them know what is going on, what to look for and to expect on their tour of duty. Remember, yo cannot clean up any criminal condition on your route unless all three are working together on it. Don't be too anxious to get all the credit for any good work done on your route, especially so when your partners have done as much as you.

After relieving your partner, immediately ring in your first "On duty call", then start patrolling your route. If at night on the first watch, look out for those stores and business places that close early and try their doors to make sure they are secure. Then again, you may have certain stores that close up a little later, such as chain stores, small groceries, novelty shops, and the like. This is a dangerous time for them, as they are likely to have the receipts of the day's business in the store and no one in particular around, with the help gone home or out to supper. "Hold-up men" know all these things, and take advantage of them. Pay particular attention to these stores in the early evening hours.

Of course you should have located the police boxes, but in addition locate the fire boxes, places that keep open late at night and would have a telephone if needed; places that may be a source of danger in an emergency, and how to handle it; places that valuables are stored in and are likely to be broken into. In other words, get the lay of the land, know your route and what is on it.

The following might be called "The Ten Commandments of a Police Officer on Post", and constitute a safe rule of conduct for a police officer to follow while on post:

1. To patrol my route or post in a careful manner, keeping constantly on the alert, observing everything of police importance within sight or hearing.
2. To prevent crime.
3. To arrest and detect criminals when a crime has been committed.
4. To protect life and property.
5. To preserve the public peace.
6. To enforce all laws and ordinances.
7. To hold conversation with nobody, especially women, except in the line of duty.
8. To enter no building nor leave my route or post except on police business, without permission from a superior officer or unless properly relieved.
9. If it becomes necessary that I enter a building for any purpose other than police business, and I cannot wait until I get permission from my superior officers, immediately after returning to my route, I will telephone to the station and notify the officer in charge of my absence, the cause, the length of time I was absent, and the building I entered.
10. Not to drink intoxicating liquor while on duty or to have it in possession while on duty, except when taken in a raid or held as evidence.

Let us analyze these commandments so as to thoroughly understand what they mean.

THE FIRST: To patrol my route in a careful manner. If you patrol your route in a careful manner you will prevent crime about to be committed and you are in a fair way to capture or detect a criminal if he has committed a crime.

In patrolling your route, you must always be alert, as a man who is dreaming or thinking of other things than police business will see little of police importance.

To observe everything of police importance within sight or hearing. "To observe" - whole volumes could be written on the importance of these words to the police officer. Observation is without doubt the most important qualification a police officer can have. He may have all the other qualifications necessary for a good officer, but without observation, he is of little use to the public that is paying him. It is the essence of police efficiency, and an officer that cannot see what is going on about him might just as well be in China for all the use he will be to the department. Be suspicious! Keep your eyes open. You may be sure that the officer to whom everything always seems all right will never have any streets named after him for being a wonderful officer.

If your route is free from crime and continues so, this and this alone is the best evidence of your police efficiency.

Get in the habit of scrutinizing persons, vehicles, and certain things about stores and buildings, and memorize them; you do not know when this knowledge may be of extreme importance. In persons, try to memorize their walk, manner of dress, carriage, or any other characteristic besides the usual description. Watch vehicles that pass over your route, get the names on the sides, the color of the vehicle, etc., but especially note the drivers, as often stolen vehicles are recovered by the officer noticing that the regular driver is not on the wagon or vehicle.

The live officer who has not already a good knowledge of automobiles will take immediate steps to gain this very necessary knowledge by observing the different makes, styles, models, and special characteristics of the automobiles that pass over or are parked upon his route. Too much stress cannot be laid upon the importance of officers acquiring this information, as nearly all crimes of violence are committed by criminals who escape in an automobile.

To observe everything within your sight or hearing means that you are not confined to the limits of your own route alone if any matter of police importance occurs adjacent to or within reasonable distance of your route. For instance, you are patrolling a route on the waterfront on Division 2 and you see a fire over in East Boston - common sense would tell you that it is not necessary for you to go over there and leave your route unprotected. On the other hand, if, while patrolling your route on Division 2, you hear a shot fired close to your route, which evidently comes from Division 1, you would be justified, and it would be expected of you, to go immediately over there and investigate. Some officer might be in trouble, or the escape of a desperate criminal might be prevented by your appearance on the scene. So, while you are assigned to the limits of your route for patrol purposes, always remember that you are an officer of the law for the whole city of Boston. To pass up a serious offence, or to refer a person in an emergency to the station house when the offence committed was within reasonable distance of your route, would surely merit the censure of your superiors and probably the preference of a neglect of duty charge against you.

THE SECOND: To prevent crime. If you live fully up to the requirements of the first commandment you will have little trouble with the second. Do not let anything that might be an invitation to commit crime exist on your route. It is well to notify owners or merchants who have goods or boxes of merchandise standing on the sidewalk or streets to remove it as soon as possible to prevent its being stolen. See that pool rooms, coffee houses, restaurants, bowling alleys, and other licensed places of a similar nature are living up to the conditions of their licenses, as these places are the breeding places of young criminals. Keep a sharp lookout on second-hand dealers, junk dealers, pawn brokers, cheap garages, etc., as often you may be able to capture not only the thief, but the receiver as well. Immediately report to your superior officers those places suspected of illegally selling liquor, houses of prostitution, gambling joints, and houses used for the illegal use or sale of narcotic drugs. Be sure to write all you have observed about these places in your diary for future reference.

THE THIRD: To detect and arrest criminals. This, like the preceding commandment, reflects back to how well you carry out the first commandment. If you live strictly up to the first one, you are sure to detect criminals in the act and to accomplish their arrest. You should have acquired a knowledge of all the known criminals who live on or in the vicinity of your route, the methods of their procedure, and the particular kind of crime they are addicted to, so that when a crime is committed and the criminal escapes, you will, through this knowledge, be able to surmise who the guilty party is and quickly apprehend him. You should know all the streets, lanes, alleys, and other short cuts, as this will often aid you in the capture of a criminal you are chasing on your route.

THE FOURTH: To protect life and property. A police officer is the first line of defence for the citizen against those forces that are continually working to disrupt and destroy all that civilization stands for. If he is faithful to the first commandment, he cannot help being a protector of life and property. This implies that not only should he be ready to save human life or prevent the destruction of property, actually commenced, but also to take those precautionary measures beforehand that will prevent the endangering of human life or of property. He should constantly be on the alert and report any dangerous condition of the streets, as to holes, excavations, obstructions, dangerous conditions of buildings, dwellings, or other structures; danger from gas, electricity, steam, or other forces; fire menaces or any other source of danger to life or property.

THE FIFTH: To preserve the public peace. Your very presence alone on the street will be a preventative of disturbing the peace, as no one is going to commit a breach of the peace while a police officer is in the vicinity. If a disturbance of the peace occurs, proceed with all possible dispatch to the scene and immediately take steps to restore quiet, dispersing all persons concerned in it, and, if necessary, arrest the guilty parties, restoring peace and quiet to the community. If you find a condition that is beyond your efforts to control, immediately telephone the station for assistance and take such steps, until the arrival of the officers, as will tend to restore tranquillity in the neighborhood.

THE SIXTH: To enforce all laws and ordinances. Laws and ordinances are put in the books by the legislature or city council because some condition in our method of living requires either that this condition be eliminated or that it must be carried out. So all laws or ordinances must be enforced. This does not mean that you must arrest for every violation of the law that you see committed. At the same time, don't get into the habit of passing up some minor violation of the law just because nobody seems interested or it does not amount to much. In some cases it is better not to prosecute when a settlement of the case may be made out of court. For instance: a child breaks a pane of glass; if possible see his parents and tell them the story and the amount of damage done. Usually they will pay for the glass, which will satisfy the injured person. This is usually a very effective method of handling this type of case, as the parents will chastise the child - if not for breaking the window - at least for the cost of repairing it. In a case of felony there is no other thing to do but to prosecute the offender, no matter what the circumstances were, because a felony is too serious an offence to be settled out of court. In addition, it is against the rules and regulations to conceal or compound a felony.

When walking around your route and you see a simple violation of the law, be sure to call the violator's attention to it, even if you do not intend to prosecute him for it. Don't let people break the law and get away with it. If, after a warning, he persists in committing the same crime, put him into court and at least you will make him respect the law, if nothing else is gained by it.

The first six commandments deal with your duties as a police officer with the public. The whole six might be all contained in the first one - because if you carry out the first one perfectly, the others are sure to be taken care of. In the next four, the duties of a police officer to the department are taken up, and your success with your superior officers lies in how well you carry these out.

THE SEVENTH: To hold conversation with nobody, especially with women, except in the line of duty. This is a pretty drastic order if it were meant literally as it is written. It does not mean that you cannot pass the time of day or greet acquaintances who pass over your route, nor that you cannot talk to your brother officers on conditions relating to your work as a police officer. But it does mean that you cannot loaf on some corner talking to citizens and laughing and joking as if you were not charged with a very important duty in the care of the lives and safety of the public. This also applies to those police officers who are in the habit of congregating at some particular place for the same purpose. Remember the criminal of today is looking for just such opportunities, as it is an open invitation to commit crime at his leisure on some other part of your route, because of your neglect to attend to your business.

Police officers talking to women on the street while in uniform are the cause of much comment, and often scandal, to themselves and the citizens of the neighborhood who see officers conducting themselves in this way. If a woman has a complaint to make, attend to it with all possible dispatch. Remember, they have a right to be treated with all possible courtesy - but do not meet your wives, sweethearts, or other women on your route and engage in lengthy conversations with them. This will surely bring down the condemnation of the public and your superior officers and, if persisted in, bring dismissal from The Force.

THE EIGHTH: Not to enter a building or leave my route or post, except on police business, on permission from my superior officer, or when properly relieved. More officers get into trouble over this commandment than any other rule of the department. It is easy to avoid trouble. If it is necessary for you to leave your route for any purpose other than police business, telephone to the station and ask permission from the officer in charge. He is ready to grant any reasonable request, so do not be afraid to ask. You are charged with the care of your route and the citizens are relying on you to protect them. If you are in a building or some other unauthorized place, you cannot attend to your duties. If a serious crime is committed, you are expected to be on the job. If an accident occurs, you are the one to take care of the injured person. This will be impossible if you are in some place loafing, without a care as to what is going on in your route. DON'T BE A LOAFER! Stay outside and patrol your route.

THE NINTH: This relates so closely to the eighth commandment that I will say that if you find it necessary to enter a building not on police business, without the permission of the officer in charge - and sometimes this is liable to happen - you are still protected if you are on the level yourself. How about it? Simply telephone from the nearest box to the officer in charge and tell him where you were, the length of time you were off your route, and the reason for so doing. This is a simple thing, yet the trial board is constantly dealing with cases of officers who claim they had a sudden attack and found it necessary to enter a building in a hurry to visit the toilet and did not gain the necessary permission. When asked why they did not telephone the officer in charge, even after they came out, they have no excuse, and the result is that they undergo punishment and in many cases are dismissed from The Force.

THE TENTH: Not to drink intoxicating liquor while on duty, or have it in my possession while on duty, except when taken in a raid or held as evidence. Too much cannot be said on this subject, as almost continually your superior officers are warning you of the danger in drinking intoxicating liquors while on duty. It is a violation of the rules and regulations, and you cannot be a police officer and have the smell of liquor on your breath. If you look up the records of the department, you will be surprised how many of you have taken the place of a drunken officer. The duty of a policeman is so important that he must have his head about him at all times. Surely you would think that an officer had a large gall if he arrested someone for being drunk, when he is half drunk himself, or is in the habit of getting drunk. Then again, the danger of a police officer armed with a revolver and drunk is too much of a hazard for the public to stand for. Do not have liquor on your person even if you do not intend to drink it. There is no good reason for it, and you are constantly exposed to the temptation of drinking it. Keep away from liquor if you value your position, as it is a sure sign that you have not the character necessary for a good policeman if you are seen, in order to get a drink, to associate with known "Bootleggers" and in many cases drink from a bottle in an alleyway or in the toilet of a cheap barroom.

The department has no use for such men, and if you fall into this habit, you may be sure your days as a police officer are numbered and that you will come to a disgraceful ending of your police career.

These commandments or orders, while they do not cover all the rules and regulations, are a fair guide for the young officer on his route or in his ordinary duties - provided, of course, he is a man of honesty and integrity. In the absence of other orders, these commandments are a safe set of rules for you to follow. It can be safely said that if you are living up to these commandments, you are doing pretty near your full duty, and you are in a fair way to have the approval and confidence of both your superiors and the public.

There is one important subject that I want to call to your attention, and that is the trying of doors on your route. When you come out on your route, start immediately to try all doors of buildings, stores, warehouses, etc., on your route, which are supposed to be closed or locked up. Then again, before leaving your route or being relieved, go over them to make sure they are all right before you leave your route.

You cannot be too particular on this subject. Your partner may say to you, "All right, Joe, I have gone all over the route and everything is O.K." and your partner may be a good, conscientious officer, but do not let this satisfy you. Go over all the doors, etc., yourself and then you are sure, if at a later time the doors are found open at some building, that they were all right when you tried them, and if your partner is on the route at this time, he cannot say that the break happened on you. Then again, if you try your doors, say, at 2:00 A.M. and later on you find the same door open at 4:00 A.M., you know that the break happened between 2:00 A.M. and 4:00 A.M. and you may often be able to place suspicious persons in this manner.

WHAT TO NOTICE WHILE ON YOUR ROUTE

1. Be observant.
2. Be suspicious.
3. Business places. Time of opening and closing.
4. Persons opening or closing.
5. Location of safes and cash registers.
6. Notice if lights are lit or not.
7. Try doors and lower windows. In the dark, run hand over doors, etc.
8. On searching premises, get assistance, especially where doors are found open.
9. Vacant houses.
10. Licensed places: Pool Rooms, Bowling Alleys, Restaurants, Garages, Junk Dealers, Second Hand Shops and Pawnbrokers.

11. Location of signal boxes on route and adjoining routes.
12. Location of fire boxes on route and adjoining route.
13. Location of public telephones on route and such places as are open late at night, for a case of emergency.
14. School crossings.
15. Location of all places of amusement.
16. Habits and customs of persons residing on route and passing over same.
17. Disorderly houses, gambling joints, liquor nuisances, etc.
18. Places frequented by thieves, prostitutes and the like.
19. Suspicious persons such as beggars, prostitutes, gangsters, disguised persons, persons hanging about doorways, persons loitering, persons carrying suspicious bundles, automobiles aimlessly standing or travelling over the route. (Get license numbers and descriptions of these.)
20. Persons with criminal records living on or passing over your route.
21. Trucks loading at stores after hours (or unloading).
22. Burglar alarms in buildings.
23. Intoxicated persons passing.
24. Dangerous places: Sidewalks sunken or raised. Crosswalks sunken, raised or broken so as to make them dangerous. Vacant lots not fenced and dangerous. Swinging signs. Manholes, sewer covers, etc..
25. Street lights not lighted.
26. Dead animals; to be reported.
27. Sidewalks obstructed.
28. Leaking fire hydrants, water mains, and gas mains.
29. Water or gas leaks in buildings.
30. Unnecessary noise.
31. Passing of vehicles having the right of way (fire apparatus, etc.).
32. Placing of explosives and storing of same.
33. Children playing in the street.
34. Littering of the streets with paper, rubbish, etc.
35. Hackney carriages.
36. When leaving your post for any purpose, be sure to examine it thoroughly, as you might be decoyed off, and a crime committed in your absence.
37. Never leave your route until properly relieved and satisfied that you are leaving all doors and windows secure.
38. Meet your side partner and inform him of everything of interest going on in your route.

Chapter Five

GOVERNMENT AND CIVICS

A police officer is a peace officer appointed to enforce the laws, make arrests and maintain law and order in cities, towns, and counties. As such, he is an important element in the direct active operation of the body politic; so it is imperative that he be acquainted with the divisions and functions of government, and his own place and performance therein.

GOVERNMENT is the recognized authority for the enforcement of law; a system or policy ruling the nation.

LAW is a rule of action to determine the conduct of the people.

Our form of government is a Democracy. A form of government in which the sovereign power is lodged in the body of the people. This means that the people have the right to make laws under which they live. It means the same law for all. It means that people are willing to take upon themselves the burden as well as the privilege of government.

Our National Government with its capitol at Washington, D.C., is composed of three departments: the Legislative, the Executive, and the Judicial.

The Legislative Department, composed of the Senate and the House of Representatives, enacts the laws in accordance with the Constitution. Both the Senate and the House of Representatives are elected by the people. Each state, regardless of size or population, has two Senators, and the number of Representatives is determined by population, at the ratio of one Representative to every 280,000 persons.

The Executive Department consists of the President, aided by the Vice President and a Cabinet appointed by the President. The President is responsible for the enforcement of the laws. He is Commander-in-Chief of the Army and Navy. His cabinet, all appointed by him, consists of

Secretary of State
Secretary of the Treasury
Secretary of War
Attorney-General
Postmaster-General
Secretary of the Navy
Secretary of the Interior
Secretary of Agriculture
Secretary of Commerce
Secretary of Labor

The Judicial Department interprets the laws and consists of the U. S. Supreme Court (one Chief Justice and eight Associate Justices), Circuit Court of Appeals, and the District Courts.

The Constitution is the highest law of the land. Its purpose is: 1. To make a more perfect union. 2. To establish justice. 3. To insure domestic tranquillity. 4. To provide for the common defence. 5. To promote the general welfare. 6. To secure the blessings of liberty for ourselves and our posterity.

It guarantees

1. POLITICAL RIGHTS

(a) A government that is responsible to the people.
(b) The right to vote for all citizens.
(c) The right to be elected and hold office.

2. CIVIL RIGHTS

(a) Freedom and Equality. Every citizen shall have by right the same rights and privileges enjoyed by any other citizen.

(b) Religious Freedom. Freedom of conscience and worship. No law can be passed establishing a religion or forbidding the free exercise of religion.

(c) Free Speech and the right to assemble peacefully. We believe that every person should have a chance to speak and write his opinions freely and to assemble peaceably for this purpose. So the right of free speech, a free press, and peaceful assembly are guaranteed to all.

(d) Petition. The right to petition the government to redress your grievances is also taken care of in the Constitution.

(e) Habeas Corpus. It grants you the right of habeas corpus to inquire into the legality of any restraint or imprisonment as a protection against unlawful imprisonment.

3. OTHER RIGHTS

(a) Freedom from Search. One of our strongest beliefs in the United States is "the sanctity of the Home". It is recognized that "every man's home is his castle". No man or officer can enter your home without your permission, unless a warrant has been issued by a court having jurisdiction to arrest some person or to search for stolen or illegal property. An officer acting without such warrant breaks the law if he forces his way into your house - unless he is doing it under certain conditions of the law.

(b) Protection of Life and Property. It is an inherent right for every person to protect his own life and property, to carry on his own business or occupation without interference from others. Also, his property must not be taken by the government for some governmental use without the payment of a just price for his property. All this is amply provided for in the Constitution.

(c) False Imprisonment. No person may be deprived of his life, liberty, or property without due process of the law. He must have a fair trial. He cannot be forced to testify against himself. No person can be thrown into jail and kept there without trial on the whims or wishes of any governing officer. If a man is arrested, he is entitled to a speedy trial, and he can have his own lawyer and witnesses. He can demand bail and receive it unless the crime is treason or murder. He cannot be subjected to cruel or unusual punishments. He must not be put twice in jeopardy for the same offence. If he is convicted none of his immediate family can be deprived of their rights by his act.

(d) Imprisonment for Debt. It provides that no person can be thrown into prison for debt unless he has committed a fraud in connection with it. This precious right prevents people from being imprisoned through unforeseen conditions which are no fault of their own.

Finally, let us understand that the Constitution is the "Bulwark of the People", in that it guarantees absolute protection by the government, the right to pursuit of liberty, happiness, and welfare. No person can be deprived of these rights unless he commits some serious crime and is convicted and sent to prison, and then only while so confined.

STATE GOVERNMENT

A State is one of forty-eight separate sovereignties or political bodies which make up the United States. Each state has the right to make its own laws, provided they do not interfere with the Constitution of the United States.

Our State Government is fashioned much in the same form as that of the United States. Like the United States Government, it is governed by the Legislative, Executive, and Judicial Departments.

It is a body politic which, though subject to the laws of the National Government, has a constitution which is the fundamental law of the State.

The Legislature or General Court consists of the Senate and the House of Representatives. Both houses are elected by the people according to population. One Senator to each Senatorial District and one Representative to each Representative District. The Legislature has the power to make the laws for Massachusetts.

The Executive Department consists of the Governor, Lieutenant Governor, and the following elected administrative officers: Secretary of the Commonwealth, State Treasurer, State Auditor, and Attorney-General. The other Commissioners in charge of State Departments are appointed by the Governor.

The Governor is the Chief Executive officer of the Commonwealth. He is Commander-in-Chief of the militia of this State. He is responsible for the enforcement of all laws of the State.

The Judicial Department consists of:

(a) The Supreme Court of Massachusetts (one Chief

Justice and six Associate Justices). It interprets the State Constitution and decides whether or not the laws passed by the Legislature are consistent with it.

(b) The Superior Court - consisting of one Chief Justice and thirty-one Associate Justices. It holds sessions in the different counties. It has jurisdiction over all crimes committed in Massachusetts and appelate jurisdiction over those cases appealed from the lower court.

(c) The District or Municipal Courts. They cover every part of the State in sections called "judicial districts". There are no jury trials in these courts. They have jurisdiction over all offences that can be sentenced to Jail or the House of Correction, but their decisions as to fine or imprisonment may be appealed to the Superior Court.

(d) The Juvenile Court. In Boston we have the Boston Juvenile Court, which has jurisdiction over juvenile offenders under seventeen and on cases concerning neglected, wayward, and delinquent children. In other parts of the State each court has a special session for juveniles, but there are no separate juvenile courts.

(e) The Land Court. This is a court with special jurisdiction over real estate and petitions to register land titles. Only one in Massachusetts - Court House, Pemberton Square, Boston.

(f) The Probate Court. This court is organized with jurisdiction over the settlement of estates, probating of wills, guardianship over orphans, and others requiring such care. This is the court that hears petitions to adopt children or to change your name, divorce cases, and the care of minor children, etc. Every county has one.

COUNTY GOVERNMENT

(a) A County is a subdivision of the State, with jurisdiction over certain matters concerning the county. In Massachusetts we have fourteen counties: namely, Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester.

(b) Executive: It is governed by the County Commissioners elected by the people, who manage the affairs of the county. They have charge of the county property, expenditures of county money, and the care of the county poor. Suffolk County Commissioners consist of the Mayor of Boston and the City Council.

The other elective offices are the Sheriff, who appoints his Deputies; the Clerk of Court; Registrar of Probate; and the Registrar of Deeds; and the District Attorney for Suffolk County.

CITY GOVERNMENT

(a) The City of Boston consists of 22 Wards and 339 Precincts.

(b) Its Constitution is the City Charter.

Executive Department:

(a) The mayor, elected by the people for four years. Responsible for the enforcement of the laws of the city. Vetoes or approves all laws or ordinances passed by the City Council. Makes up the budget.

(b) The heads of the various departments appointed by the mayor and who are responsible to him for the proper performance of their duties.

Legislative Department:

(a) The City Council, elected by the people for a term of two years.

This body passes city ordinances, rejects or approves all appointments by the Mayor and acts in the same manner toward the budget.

THE POLICE OFFICER IN GOVERNMENT

It is a settled fact that no organized government can exist without providing for the common defence and tranquillity of the public. So it is an absolute necessity to have an Army and Navy to protect our shores and boundaries from the aggression of other nations. The next provision for organized government is to protect its citizens from internal disorders and dissension. So the necessity of a police force. All other functions of government are secondary, as they can be attended to by legislation as the necessity arises. The Army and Navy, the police and the courts, are absolutely necessary if we are going to have an organized government.

Every police officer should always remember that the policeman is an important member of the body politic. We are a branch of the Executive Department of government and derive our authority from the State and Municipal subdivisions thereof.

The special province of the police is law and order, the preservation thereof, protection of life and property, the prevention of crime, and the apprehension of criminals.

Chapter Six

THE LAW OF ARREST

The police department has been organized for five specific purposes:

1. To prevent crime.
2. To detect and arrest criminals.
3. To protect life and property.
4. To enforce all laws and ordinances.
5. To preserve the public peace.

No man can be a success as a police officer unless he understands these fundamental principles.

Upon arrival at the scene of a serious crime, there are three things to do:

(a) Arrest the perpetrator of the crime.
(b) Safeguard the evidence.
(c) Procure witnesses.

If these three things are done competently, systematically, and intelligently, the chances of bringing the case to a successful close are readily assured.

In most criminal cases it is necessary to make an arrest. As it is a serious thing to deprive a person of his liberty, the officer must at all times be exceptionally careful in making such arrest that he is within the law in such action. If he makes a mistake, he is liable, and as he has no time to consult law books at the time of the commission of a crime, to find out if he is justified, he is bound for his own protection to have a thorough knowledge of the "Law of Arrest", before attempting to act in such matters.

ARREST

The taking of a person into custody by authority of the law, so that the person becomes the prisoner of the other. To arrest is to forcibly detain. It is not necessary to lock the person up; the mere fact of detaining him, whether on the street, in an office building, or a private residence; the simple fact of not letting him follow his own pursuits is arresting or detaining a person. A person is under custody of the law when he is placed in restraint, or when he submits to the same. It is important to know when a person is under arrest, because if one is arrested illegally, he may prosecute the officer making the arrest, or, as is more often done, bring a suit for damages against the officer civilly.

To complete an arrest, there must be a taking into custody either by the touching of the defendant for the purpose of arresting him, which purpose must be brought to the knowledge of the defendant, or by his submission to the words of the arrest with knowledge that he is being arrested. 68 Minn. 509.

An officer making an arrest should touch the person to be arrested lightly on the shoulder, at the same time saying, "I arrest you for . . . . ." If the officer is in plain clothes, he should say, "I am a police officer", show his badge, and say, "I arrest you for . . . . ." The touching is significant that the officer has the defendant within his power, but there is an arrest if the defendant submits to the authority of the officer by accompanying him as directed, or some other significant act. The spoken words do not constitute an arrest, nor will acts of the defendant not amounting to a submission. There is no arrest if the person is not deprived of his liberty.

Arrests may be made under three instances only:

1. With a warrant.
2. When a felony has been committed, or reasonable suspicion that a felony has been committed exists and the person arrested has committed it, or reasonable grounds exist for believing that he committed it.
3. When a misdemeanor amounting to a breach of the peace has been committed in the presence of the officer. It is illegal to arrest for statutory misdemeanors, not amounting to a breach of the peace, whether committed in the presence of the officer or not, unless it is expressly provided for by statute to make such arrest. 158 Mass. 149 at 159.

BREACH OF THE PEACE

Any act which interferes with the right of the public to good order, decency, quietness, unobstructed free passage, personal safety, and tranquillity in public places. This means that it must be an act which disturbs the public as a whole, that is, an indefinite number of people. If any of these acts are persisted in, the person committing it can be arrested without a warrant.

In making an arrest, the person arrested has a right to know whether or not he is arrested legally. An officer making an arrest with or without a warrant must make known his official character, his intention to arrest, and the true grounds upon which the arrest is made.

The person arrested may have notice of this authority by the arrest being made by a known officer, or by seeing his uniform or badge, or by being arrested while actually committing a crime, or by the officer making the arrest giving notice of his purpose and the reason therefor, or his being immediately pursued from the scene of his crime.

If the arrest is made on a warrant, the person arrested has a right to see the warrant, but in Massachusetts, in case of a misdemeanor, you are not required to have the warrant in your possession at the time of the arrest. Mere knowledge that the warrant has been issued is enough. So under these circumstances, the prisoner should be shown the warrant at the station house or when turned over to the officer who has the warrant. You must show the warrant if you have it and can safely do so.

In a felonious case an officer can arrest whether or not there has been a warrant issued. He can also arrest for any misdemeanor amounting to a breach of the peace, or where an arrest is expressly provided for by statute, if it is committed in his presence. But arrests for misdemeanors must be immediately upon the commission of the offence or upon fresh pursuit. An arrest without a warrant for a misdemeanor committed hours ago would be illegal.

"In the presence of an officer" means anything that comes to his knowledge through any of his five senses. Generally speaking it means - he must have been near enough to see the offence committed, or to hear it, and immediately proceed to the scene of the crime.

A police officer who makes an arrest is bound to bring the person arrested immediately before the court if it is in session. If the court is not in session, he is bound to bring him before the next session of the court. Once he arrests a person, he has no right to release him without bringing him to court and making a complaint against him, unless such person voluntarily consents to his release in case of arrest for a suspicious person, and he signs the necessary waiver to that effect.

Outside of his own city or town (his own jurisdiction), unless he is acting on a warrant, a police officer has no more right than the ordinary citizen to make an arrest. A private citizen may arrest for any felony or in any case amounting to a breach of the peace, and turn the arrested person over to a police officer of the city or town where the offence was committed.

Offenders arrested on moving trains by Railroad Police officers in transit are held in custody of the conductor until the train arrives at a station where they may be turned over to any police officer of the city or town, and it is his duty to so receive the offender. Police officers should be careful in these cases to see that the arrest is justified, as they are the ones to make the complaint in court and the conductor and the other train employees are the witnesses.

A captain or master of a vessel or ship takes charge of all prisoners breaking the laws while aboard his ship. If the offence is committed on a body of water within the three-mile limit or boundaries of a state, the prisoner shall be delivered to a police officer of the city or town or county where the landing is effected. If it was committed on the high seas, he must be delivered to a United States Marshal.

A police officer may arrest a person upon reasonable suspicion that he has committed a felony, without a warrant, for the purpose of holding him a reasonable time, to investigate his guilt.

The necessary elements of the grounds of suspicion are that the officer acts upon a belief in the person's guilt, based either upon facts or circumstances within the knowledge of the officer, or upon information imparted to him by reliable and credible third parties, provided there are no circumstances known to the officer sufficient to materially impeach the information received. It is not every idle and unreasonable charge which will justify an arrest. An arrest without a warrant is illegal when it is made upon mere suspicion or belief, unsupported by facts, circumstances, or credible information calculated to produce such suspicion or belief. 5 Corpus Juris 418.

Reasonable grounds might be any of the following conditions:

(a) Where there is a strong resemblance between the person arrested and person wanted, especially if he cannot identify himself as a person who could not have committed the felony.

(b) Where his movements and actions are similar to those of the person suspected of committing the crime.

(c) If a person accuses another of committing a felony, or was in the company of one who committed a felony.

(d) In a larceny case where the person arrested has some of the proceeds of the crime in his possession, or where the culprit has been seen leaving a building where a felony has been committed.

(e) In homicide cases or where there is a dangerous wound given, reasonable suspicion would be previously making threats against the person assaulted or killed; having blood stains or marks of a fight or scuffle on body or clothes; or the existence of a well-defined motive.

If after an investigation, the officer finds his suspicions groundless, he must still bring the arrested party before the court, unless he voluntarily signs a waiver releasing the officer of his responsibility. Where the arrested party refuses to sign such waiver, the officer is bound to apply to the court for a warrant charging the offence he was suspected of committing, and the justice, after listening to the evidence submitted, will refuse to issue a warrant, which covers the officer insofar as bringing the arrested party before the court is concerned.

Where the officer has an arrested party sign the waiver, he must be very careful to have the prisoner sign it voluntarily and have disinterested witnesses to the whole transaction. The courts are inclined to look with disfavor on such waivers unless it can be shown clearly and specifically that the signing of such waiver was voluntary.

When a person is arrested he must be brought before the next sitting of the court having jurisdiction to try his case, if it is not in session. If he is detained for any reason that is not reasonable or proper, the officer is liable for false imprisonment, as it is illegal.

There are a few misdemeanors for which an officer can arrest without a warrant even though they were not committed in his presence. They are as follows: tramps and vagrants on view or upon complaint of another person; upon the order of a justice of the peace or other magistrate who has seen an assult, affray, riot, or disorder committed in his presence; upon the order of the presiding officer of an election for certain violation of the election laws, not committed in the presence of the officer; persons arrested by Railroad Police or Steamboat Police for an offence committed in their presence can be arrested by the officer and he must complain of them in court; for an assault and battery that may result in a felony that was not committed in his presence.

Members of Congress and members of our State Legislature are privileged from arrest except for treason, felony, or breach of the peace while attending a session or returning from such session.

Foreign Ambassadors, their diplomatic attendants or their official household are exempt from arrest under any circumstances. Consular Generals are exempt, but consuls are not exempt, as they are not diplomatic officials.

When an officer makes an arrest he may search his prisoner, even against his will. He can even search his prisoner on the street if he has any reason to suspect he has a weapon, other instrument or poison, etc., that might be on his person to do damage to himself or others, or where he is suspected of having certain evidence on his person that might be destroyed. When the prisoner is brought to the station a more thorough search may be necessary, even to the stripping off of his clothes. Any article that may be used as evidence against him, weapons, drugs or anything that may be dangerous to himself or others, is then taken from him and held until the final disposal of the case, or the prisoner is released from custody. It is police practice to take money and other valuables from the prisoner for safekeeping, but there is no law allowing this to be done, and when the prisoner is released or leaves the station, all this must be returned to him, unless it is being held as evidence.

Arrests for a felony may be made at any time during the day or night, but arrests for a misdemeanor on a warrant shall not be made at night unless permission from the commanding officer of a division is granted. (Police Rule) Should there be any reason to believe that a man is about to escape, you can serve the warrant at any time.

If a person is arrested, he must be charged with a crime. The practice of arresting a person on suspicion of felony is illegal unless he is charged with the crime he is suspected of committing. If after arrest he demands bail, he is entitled to be bailed, unless it is a crime for which bail is not allowed. In other words, this means that you cannot arrest a man on suspicion. Suspicion of what? You must connect him with some felony that has been committed.

Material witnesses are often arrested without a warrant by police officers, and it makes a problem for the desk officer to properly decide what is right, so that the ends of justice will be fulfilled and at the same time show due regard for the rights of personal liberty. It is provided that a magistrate can commit a material witness, but no such right is vested in the police. On the other hand, how is he going to be committed if he is not brought into court? The power of the police is vested in a suspicion of guilt and usually, upon investigation, the police will find evidence enough to hold such witness as an accessory or on suspicion of actual guilt, until he is brought before the courts, where his exact status can be easily determined, and if necessary, he may be held as a material witness.

If a person has been before the courts and bailed and afterwards it is suspected that the person who went bail for him was not qualified, that is - went "straw bail" for him - you would not have any right to arrest the person bailed unless a default warrant was issued for him. A person is not a defaulter until declared so by the court.

The only violation of the automobile law that you are justified in arresting for without a warrant is in the cases where you have stopped the operator for some violation of the automobile law and you find he has no license to operate.

ARREST ON FOREIGN VESSELS. "When a vessel comes within the jurisdiction of another civilized power, crimes committed aboard her are cognizable by the power into whose limits she has come" - except a Man-o-War.

"Notwithstanding any treaty agreements, the local authorities have jurisdiction on such vessel. If an offence is committed on such ship in an American port, disturbing the tranquillity of the port, or might so disturb it."

Chief Justice White in the Wildenar Case.
120 U.S. 1

An officer arresting a defendant without a warrant is not criminally liable therefor if he has acted in good faith and has reasonable cause to believe such person guilty of the offence. 141 Mass. 102. This rule is applicable to all cases where an arrest without a warrant is permitted and rests on the ground that a criminal intent is necessary to constitute a crime.

Where an officer was making an illegal arrest or an arrest on a void warrant, it seems the arrested party has a right to resist the arrest, using no more force than is necessary to prevent the arrest and a third party may or can legally assist such person in resisting the arrest. Com. vs. Crotty, 10 Allen (Mass.) 403.

An officer can justify any arrest by proving the following conditions:

1. That he is an officer of the law.

2. That he had a warrant or other process with him or knew of its existence when he made the arrest.

3. That he followed the directions of the process or warrant; or that he lived up to the statutes under which he made the arrest; or that he was acting under verbal orders of the court, a magistrate, or justice of the peace, who saw the offence committed.

4. That the process was regular on its face; that it was issued by a court having jurisdiction of the subject matter, that it was addressed to him as a police officer, and that there was nothing on its face to advise him of it not being issued by lawful authority.

5. That he acted in good faith, without malice, and without any desire to injure the person arrested, for his own or any other person's gain.

6. If it is an arrest on suspicion, that the arrested party voluntarily signed a waiver for his release and that his arrest was on a reasonable suspicion of a felony.

SUMMARY OF ARRESTS WITHOUT A WARRANT

1. A police officer may arrest without a warrant for any felony being committed or attempted in his presence or view.

2. For a breach of the peace committed in his presence or view, provided the arrest is made during its commission or perhaps immediately afterwards.

3. On a reasonable charge made by another that a felony has been committed by the person arrested.

4. On his own reasonable suspicion that a felony has been committed and the person arrested is guilty, and this authority is still legal even though the arrested party is afterwards found not to have committed the felony or even if no felony had been committed at all.

5. He may recapture a prisoner who has escaped from lawful custody, whether before or after conviction.

He may also arrest on the order of a magistrate, justice of any court or a justice of the peace who has seen an affray, riot, breach of the peace, or a felony committed in his presence.

He can arrest tramps, vagrants, etc., on his own or the information of any other person who has seen them begging, etc.

He can arrest a person on the order of the presiding officer at an election for certain offences he did not see committed.

He can take over persons arrested by railroad and steamboat officers for crimes not committed in his presence, and he is the one to make a complaint against them.

He can arrest without a warrant for an assault and battery not committed in his presence, where he has reason to believe that such assault will result in a felony.

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After arrest he must immediately bring his prisoner before a court or other proper magistrate if it is in session. If the court is not in session, he must bring his prisoner before the next session of the court.

This applies whether or not the offence is a felony or misdemeanor.

STATUTORY MISDEMEANORS

ARREST WITHOUT A WARRANT

As we have seen in the previous pages, for certain statutory misdemeanors not amounting to a breach of the peace, there is no authority for an officer to arrest without a warrant. The following are statutory misdemeanors in which the police are given authority to arrest without a warrant:

1. Alms, receiving contributions of money, food, clothing, or other articles in or upon the streets, parks, public grounds or other public places, without a license from the Overseers of the Poor. IF THE DEFENDANT IS UNKNOWN TO THE OFFICER. 1909 - Sect. 538.

2. Sauntering and loitering; obstructing the sidewalk. IF UNKNOWN TO THE OFFICER. G.L. 272 - 59, R.O. 39 - Sect. 36.

3. Accosting another with obscene or profane language. IF UNKNOWN TO THE OFFICER. 272 - 59, R.O. 39 - Sect. 52.

4. Throwing rubbish in the streets and refusing to remove same. IF UNKNOWN TO THE OFFICER. 272 - 60 and R.O. 39 - 41.

5. Spitting on the sidewalk, etc. IF UNKNOWN TO THE OFFICER. G.L. 270 - 14 - 15.

6. Any violation of the Park Rules. IF UNKNOWN TO THE OFFICER. G. L. 272 - 59.

7. Occupying a portion of a public street without a permit. IF UNKNOWN TO THE OFFICER. G.L. 272 - 59 - R.O. 39 - 57.

8. Promoting anarchy by exhibition, distribution, or promulgation of any written or printed document, paper, or pictorial representation, advocates, advises, counsels, or incites, assault upon any public official, the killing of any person, the unlawful destruction of real or personal property or the overthrow by force or violence of the government of the commonwealth. G.L. 264 - 12.

9. Upon the command of a judicial officer or a justice of the peace who saw an affray, riot or an assault and battery committed by any person, he may arrest without a warrant. G.L. 220 - 3.

10. For any violation of the caucus, primary, or election laws. G.L. 54 - 74. G.L. 56 - 67.

11. Cruelty to animals. G.L. 272 - 77 - 81 - 82.

12. Disorderly persons (272 - 54) A police officer may arrest persons found in a street, highway or other public place, committing any offence mentioned in G.L. 272 - 53, as follows: Rogues and vagabonds, persons who use any juggling or unlawful games or plays, common pipers and fiddlers, stubborn children, runaways, common drunkards, common nightwalkers, both male and female, persons who with offensive or disorderly act or language accost or annoy in public places persons of the opposite sex; pilferers, lewd, wanton, and lascivious persons in speech and behavior, common railers and brawlers; persons who neglect their calling or employment, or who misspend what they earn and do not provide for themselves or for the support of their families, and all other idle and disorderly persons, including therein those persons who neglect all lawful business and habitually misspend their time by frequenting houses of ill-fame, gaming houses, or tippling shops.

13. Dog and cock fighting. Any officer may, without a warrant, enter any building in which there is an exhibition of birds or animals fighting or where preparations are being made for such exhibition, and arrest any person found there. 272-89.

14. Fast driving. A police officer may, without a warrant, arrest a person for violation of a city ordinance against riding or driving at a rate of speed inconsistent with public safety or convenience. R.O. 39- Sect. 35. No person having the care of a horse, or other beast of burden, carriage or draught, shall drive, ride, or permit such horse, beast of burden, carriage or draught, to go at a greater rate of speed than 7 miles an hour in a public street, except in Wards 18, 19, 20, 21, and 22, or in a public street in said excepted portion of the city at a greater rate of speed than 12 miles per hour.

15. Gambling. Whoever, in a public place, public conveyance or in a private place upon which he is trespassing, plays at cards, dice, or any other game for money or other property, or bets on the sides or hands of those playing, shall forfeit not more than $50 or be imprisoned for not more than three months; and whoever sets up or permits such game shall be punished by a fine of not less than $50 nor more than $100 or by imprisonment for not less than 3 nor more than 12 months. If discovered in the act, he may be arrested without a warrant by any sheriff, deputy sheriff, constable, or any other officer qualified to serve criminal process; held in custody in jail or otherwise, for not more than 24 hours, Sundays and legal holidays excepted, until a complaint may be made against him for such offence. 271 - 2.

Whoever, during or within 12 hours of the time of holding a cattle show, military muster, or public gathering within one mile of the place thereof, practices or engages in any gambling or unlawful game, shall forfeit not more than $20. If discovered in the act, he may be arrested without a warrant by any sheriff, deputy sheriff, constable, or any police officer qualified to serve criminal process, etc. 271 - 6.

16. Game and fish laws. A police officer may arrest without a warrant any person whom he finds violating any of the fish and game laws, except that a person engaged in the business of regularly dealing in the buying and selling of game at their usual places of business. 130 - 5.

17. An officer may arrest without a warrant a person whom he has reason to believe is a foreign-born, unnaturalized citizen, who has in his possession a firearm, and seize the same. 131 - 74 - 76.

18. Intoxication. Any person who is found in a state of intoxication in a public place, or is found in any place in a state of intoxication, committing a breach of the peace or disturbing others by noise, may be arrested without a warrant by a police officer. 272 - 44.

19. Persons found in the act of illegally manufacturing, selling, exposing or keeping for sale, storing, transporting, importing or exporting alcoholic beverages or alcohol, may be arrested by a police officer without a warrant, and he can seize the liquors, etc. 138 - 56.

20. A police officer may arrest without a warrant any boy or girl who has escaped from or broken the conditions of parole from the Lyman School for boys and the State Industrial School for Girls. 120 - 12.

21. Malicious mischief on the Lord's Day. Whoever is discovered in the act of wilfully injuring a fruit or forest tree, or of committing any kind of malicious mischief on Sunday, may be arrested without a warrant by a police officer. 266 - 131.

22. Nighttime. During the nighttime the police may examine all persons abroad whom they have reason to suspect of an unlawful design, and may demand of them their business abroad and whither they are going; may disperse any assembly of three or more such persons; and may enter any building to suppress a riot or breach of the peace therein. Persons so suspected who do not give a satisfactory account of themselves, persons so assembled who do not disperse when ordered and persons making, aiding, or abetting in a riot or disturbance, may be arrested without a warrant by the police. 41 - 98.

23. Any person throwing or shooting a missile at a locomotive or railway train or a person employed thereon or who interferes with or assaults a conductor, engineer, fireman, or brakeman, may be arrested without a warrant. 159-104.

24. A police officer, upon view of anyone riding without right upon a locomotive engine, tender, freight car, caboose, or other conveyance not a part of a passenger train upon a railroad or upon the property of the Boston Terminal Co., may arrest without a warrant. 160 - 220.

25. Any officer qualified to serve criminal process may, within his jurisdiction, arrest without a warrant any person in the act of committing any misdemeanor in or upon any of the rivers, harbors, bays, or sounds within the Commonwealth. 91 - 58.

26. Any person who has in his possession without a permit from the Fire Marshal, bombs, explosives, etc., may be arrested without a warrant, and such explosives seized. 148 - 58.

27. Any person who operates a motor vehicle and violates any law or regulation relating to motor vehicles, and who has not his license to operate with him, may be arrested without a warrant. 90 - 21.

28. Whoever, not being a pilot or other public officer, shall board or attempt to board a vessel arriving in Boston harbor, before such vessel has been made fast to the wharf, without a previous permission of the master or other agent of the vessel, may be arrested without a warrant. 102 - 1-3.

29. A landlord or boarding-house keeper who detains or holds a lien on a sailor's wearing apparel or other property when he is under a contract or shipped for a voyage from a port of the Commonwealth, may be arrested without a warrant. 102 - 2-3.

30. Tramps, vagrants, and vagabonds may be arrested without a warrant. 272 - 63-65-66-67-68-69.

31. Whoever, without right, enters or remains upon or in the dwelling house, buildings, boats, or improved or enclosed land, wharf, or pier of another, after having been forbidden so to do by a person in control of the premises, or by a notice posted thereon, may be arrested without a warrant. 266 - 120.

32. Any person found polluting a water supply or bathing in such water supply may be arrested without a warrant. 111 - 173; 111 - 171.

33. G.L. 159 - 93, provides for the arrest by railway or steamboat officers for certain offences and may be turned over to any police officer for prosecution.

Chapter Seven

ARRESTS WITH A WARRANT

In all cases except a felony or a misdemeanor amounting to a breach of the peace, or where the statutes expressly provide for an arrest without a warrant, a warrant is necessary to justify an officer in making an arrest.

A "Warrant of Arrest" is an order in writing, issued by a judge or other magistrate in the name of the State, naming a person charged with crime, directed to a proper officer, and commanding him to arrest and bring before the court the body of the person therein named.

The Constitution of the United States and our own state Constitution, provide similar provisions with respect to warrants that must be always borne in mind. As we are police officers of the State of Massachusetts, it is well for us all to know the provisions of this Article. Article XIV. Every subject has a right to be secure from all unreasonable searches and seizures of his person; his house; his papers; and all his possessions. All warrants therefore, are contrary to this right, if the cause and foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied by a special designation of the persons or objects of search, arrest or seizure; and no warrant ought to be issued but in cases, and with the formalities, prescribed by law.

When an officer receives a warrant, it must be a valid one or he cannot serve it. Therefore he should examine it carefully before serving it to be sure it has the following requirements:

1. That the warrant is valid on its face.
2. That it has been issued by a court or magistrate having jurisdiction of the subject matter.
3. That it is addressed to him as a police officer of the City of Boston or to any officer empowered to serve criminal process in this Commonwealth.

A warrant on its face should state the county in which it is issued; this is generally done by the words "Suffolk S.S. or "Suffolk to wit"; meaning - "The place of"; this is generally in the upper left hand corner of the warrant under the heading "Commonwealth of Massachusetts".

It should state that the complaint was made on oath.

It should state the substance of the complaint as "Assault and Battery" or "Breaking and Entering" or whatever offence it is that has been committed.

It must name the person and charge him with the crime.

It must have the seal of the court or magistrate who issues it.

It must be subscribed (signed) by the court that issues it.

In regard to jurisdiction, a police officer is bound to know the law on this subject, and if it is apparent on the face of the warrant that it is issued by a magistrate not having jurisdiction, the officer is not protected in making an arrest on such a warrant.

It must be directed to him. That is, it should be in some such terms as follows: To any officer empowered to serve criminal process in said Commonwealth - or, To the Sheriffs of our several counties, or their deputies, or any constable or police officer of any city or town in this Commonwealth, etc., or any State police officer. A Boston police officer would be justified in serving this warrant.

Under our laws, the warrant must accurately name or describe the person to be arrested. If his name is on the warrant, that is enough. Sometimes a person is equally well known under two or more names, or he may be known in one part of the city under one name and in another part under another. In this case it does not have to be his correct name if he is equally well known under the name on the warrant. Your warrant is only good for the person named in it. For instance, if you have a warrant for Arthur Smith and you know that William Smith is the man wanted, you cannot arrest William on this warrant because he is not the person named therein. Of course, if the case was a felonious one, you could arrest either one whether or not he was rightly named (without any warrant whatsoever) because you do not require a warrant to arrest for a felony at any time.

Suppose your warrant called for the arrest of one James Carlton and you find out his name is James Carleton - you would be justified in arresting him on the warrant because a mere clerical error does not make it void, especially when the pronunciation is similar.

If the name of the person is unknown, it must be so stated in the warrant, as follows: John Doe, whose other and true name is unknown, who is (here follows a complete description of the person, as far as possible, including his occupa-a tion and any peculiarities he may have).

There is no such thing as a general warrant (that is, for the man who murdered John Jones). You can see that a warrant of this kind would be too much of a weapon in the hands of the police, as they could arrest anybody at any time, whether he was guilty or not. You could not have a blank warrant in your possession and fill in the name of any person you wanted to arrest.

Any defects in a warrant must be rectified by the person who issued it. If necessary, you could go to any other person who has authority to issue warrants and get a new warrant for the same crime, especially where there might be an unreasonable delay in getting the warrant. Anyway, a police officer would never be justified in making changes or corrections of mistakes in a warrant, and if he does so his warrant is void - it is no longer the original precept issued.

The following are some important sections taken from the General Laws in regard to arrest and warrants.

G.L. 276. S. 21.

Justices of the Supreme Judicial, Superior, or District Courts and trial justices may issue process for the apprehension of persons charged with crime. In military circles, the presidents of a court-martial or a summary court-martial may issue a process for the arrest of certain military offenders, and police officers have the right to serve said process in the same manner as any other warrant of arrest and bring the culprit to the place where the process was issued.
G.L. 33 - S.175.

G.L. 276. S. 22.

Upon complaint made to any such justice that a crime has been committed, he shall examine on oath the complainant and any witnesses brought by him, reduce the complaint to writing, and cause it to be subscribed by the complainant, and if it appears that a crime has been committed, shall, except as otherwise provided, issue a warrant, reciting the substance of the accusation and requiring the officer to whom it is directed forthwith to arrest the accused and to take him before the court or trial justice of the county to be dealt with according to law, and to summon witnesses as shall be therein named to appear and give evidence on the examination or trial.

G.L. 276. S. 23.

Warrants and other processes issued for the apprehension of persons charged with crime may be directed to and served in any part of the commonwealth by an officer authorized to serve criminal process in any county. Such officer may command aid and exercise the same authority as if in his own county.

G.L. 276. S. 28.

Any officer authorized to serve criminal process may arrest and detain a person charged with a misdemeanor, without having a warrant for such arrest in his possession, if the officer making such arrest and detention shall have actual knowledge that a warrant then in force and effect for the arrest of such person has in fact been issued.

G.L. 276. S. 29.

If the crime charged in the warrant is not a felony, and the defendant requests to be taken before a magistrate of the county where he was arrested, for the purpose of entering into recognizance without trial or examination, the officer who arrested him shall take him before a magistrate of that county, who may require from him a recognizance, with sufficient sureties for his next appearance at the court which has jurisdiction of the crime and next to be held in the county or judicial district in which it is alleged to have been committed and upon entering into such recognizance the defendant shall be released.

G.L. 276. S. 32.

If the crime charged in the warrant is a felony, the officer who makes the arrest in another county shall convey the prisoner to the county where the warrant was issued.

G.L. 218. S. 32.

District courts may receive complaints and issue warrants and other processes for the apprehension of persons charged with crime and found within their county, or who after committing crime therein, escape therefrom, returnable before a court or trial justice of the county having jurisdiction of the trial or examination of the person charged with the crime.

G.L. 218. S. 33.

A clerk, assistant clerk, temporary assistant clerk, paid by the county, may receive complaints, administer to the complainant the oath required thereto, and issue warrants, search warrants, and summonses returnable as required when such processes are issued by said court.

G.L. 218. S. 34.

Said court may dispense with the issuing of a warrant if the persons charged with a crime have been arrested without a warrant and brought before the court, or admitted to bail; but in such cases the officer making the arrest shall endorse the complaint with a statement of his doings.

G.L. 218. S. 35.

A justice or special justice of a district court, or a justice of the peace who is also a clerk or assistant clerk of such court may at any time receive complaints and issue warrants and summonses under his own hand and seal, and such justice or special justice may likewise issue search warrants, returnable before a court or trial justice having jurisdiction.

G.L. 268. S. 22.

An officer who wilfully delays the service of a warrant of arrest or a search warrant committed to him for service shall be punished by a fine of not more than $50.

G.L. 268. S. 23.

An officer who, being authorized to serve process, wilfully and corruptly refuses to execute a lawful process directed to him and requiring him to apprehend or confine a person convicted of or charged with crime, or wilfully and corruptly omits or delays to execute such process, whereby such person escapes, shall be punished by a fine of not over $500 or imprisonment for not more than one year.

G.L. 268. S. 24.

Whoever, being required in the name of the commonwealth by a sheriff, deputy sheriff, constable, police officer, or watchman, neglects or refuses to assist him in the execution of his office in a criminal matter, in the preservation of the peace, or in case of escape or rescue of persons arrested upon civil process, shall be punished by a fine of not more than $50 or by imprisonment for not more than one month.

When a warrant comes into your hands for service there is nothing optional on your part about serving it. If it is regular on its face, has been issued by proper authority, and is addressed to you, it is your duty and you must make the arrest on it, if it is possible. On the other hand, if there is anything wrong about the warrant - that is, if it is not properly issued, the person's name is not on the warrant, or there is a mistake on it - you must not serve it, as it is void. You must know whether or not the warrant is a legal one before you are justified in serving it.

When you are about to make an arrest with a warrant, the procedure is much the same as an arrest without a warrant. If you are in civilian clothes, you should step up to the person to be arrested, lay your hand on his shoulder and say, "I am a police officer of the City of Boston," - show your badge, then say, "I arrest you on a warrant charging you with larceny" or whatever crime is charged in the warrant.

When a person who is arrested resists, the officer is bound to uphold the law and effect the arrest. In so doing he may use any force necessary to make the arrest - EVEN TO THE POINT OF TAKING LIFE, WHEN THERE IS NO OTHER WAY OF MAKING IT. This probably would apply to felonious cases, as in the case of a misdemeanor, where the officer is not unlawfully attacked, and the prisoner has suddenly pulled away and runs, it would be against the rules of the department to fire on him to prevent his escape and probably the courts would not uphold you in such a case. On the other hand, if the prisoner or his friends, even in a case of simple drunk, are attacking the officer and he is in great danger, he would be fully justified in using any means to overcome the resistance offered to hold his prisoner and make the arrest. Remember, any unlawful use of force - or any unnecessary use of force - on your part, makes you a trespasser, and as such you are liable both criminally and civilly for your actions. If you kill a person under these circumstances, you may be guilty of manslaughter or even murder, as the conditions may warrant.

When you know that the person to be arrested is liable to resist or cause trouble, you may anticipate such resistance. You could, under these conditions, put on handcuffs or twisters. This is considered, "The use of force" under the law. Remember, you don't have to wait until you are knocked down to use force. If the prisoner or his friends are in the mood to resist or attack you, and they start towards you, do not wait until they assault you - meet them with any force necessary to accomplish your object (the arrest of the prisoner) and to protect yourself.

There is a distinction between fleeing and resisting. If when the officer touched the culprit to effect the arrest, he ran, it becomes an escape, and the officer has no right to kill to prevent the escape of one who has committed a misdemeanor only. If it is a felonious case where he is a convicted felon or one who has committed a serious felony in the presence of the officer, the officer may be justified in shooting to kill, but even then only where no other means exist to prevent his escape.

At the time of an arrest the person arrested has a right to know the true reason for such arrest, and the officer's authority. G.L. 263, S.1. provides: Whoever is arrested by virtue of process, or whoever is taken into custody by an officer, has a right to know from the officer making the arrest or who claims to detain him, the true grounds on which the arrest is made, and an officer who refuses to answer a question relative to the reason for such arrest, or answers such questions untruly, or assigns to the person arrested an untrue reason for the arrest, or neglects upon request to exhibit to the person arrested, or to any other person acting in his behalf, the precept by virtue of which such arrest has been made, shall be punished by a fine of not more than $1000 or by imprisonment for not more than one year.

G.L. 263. S. 2.

An officer who arrests or takes into custody or detains a person, pretending to have a process if he has none, or pretending to have a different process from that which he has, shall be punished by a fine of not over $1000, or by imprisonment for not over one year.

If at any time an officer has reason to believe that his warrant might be destroyed by the person to be arrested or any other person, he does not have to expose it to that chance. To "Exhibit" as mentioned in 263 - 1 means, "To hold forth to view; to display". A warrant is the officer's protection, and he should never part with it except to a person to whom it is directed, or to the court to whom it is returnable. If the person who is arrested, or some person acting in his behalf, asks to see the warrant - he need not hand it to him or place it near the prisoner or other person so that the warrant might be destroyed by either.

Because an officer fails to give the true grounds for the arrest or fails to show his warrant, does not invalidate the arrest, but it renders the officer criminally and civilly liable for violation of 263 - 1 and also, the officer could not bring any charges for resisting or using force against the officer under such circumstances.

If the warrant is for any felony HE IS NOT BOUND TO EXHIBIT HIS WARRANT, because he could arrest without a warrant in these cases.

In all cases the officer's first duty is to complete the arrest, and therefore he is not required to show his warrant until such time as he is sure his prisoner cannot escape. Under 276 - 28, an officer is not required to have the warrant in his possession at the time of the arrest, provided he is actually sure that such warrant is in existence and in full force and effect. In this case he would show the warrant when he arrived at the station house, or when he turned the prisoner over to the officer or department that has the warrant.

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An officer who has a warrant for the arrest of any person has a right to search his house for the purpose of making the arrest, but he must (1) announce his office (2) his purpose (3) demand admission and (4) such admission must be refused, or he must wait a reasonable time, before breaking in. 120 Mass. 190.

In the execution of criminal process, the principle of the law is "Individual right must yield to public necessity" and therefore allows the habitation of man to be entered forcibly under certain conditions. 120 Mass. 190.

When a felony has actually been committed, or a dangerous wound given, an officer may, in a like manner, break outer doors to search for and arrest the offender without a warrant. He may in a like manner, without a warrant, break in to prevent a felony, or where a breach of the peace is actually in progress, and arrest the person or persons engaging in an affray or committing an assault. 108 Mass. 426: 173 Mass. 52.

An officer may break outer doors to arrest without a warrant a prisoner who has escaped on fresh pursuit, after he has lawfully arrested him. It has also been said he can break doors to arrest on fresh pursuit a person who has committed a misdemeanor in his presence for which he has a right to arrest without a warrant. But in this case the person must be actually in the house.

Where an officer is acting under a warrant, he is justified in breaking outer doors if he has reason to believe the person sought in the warrant is actually in the house and he acted in good faith, even though afterwards it is found he is not present in the house. 1 Mass. 587.

An officer is never justified in using unnecessary force to gain an entrance, nor in doing unnecessary damage or violence to property.

If the inmates make no inquiry for whom the warrant is, it is not necessary to show it.

Where an officer is justified in breaking an outer door, he would be justified in breaking any door inside the premises, as inner doors are not afforded the same protection as outer doors.

Finally, an officer making a lawful arrest may seize evidentiary articles upon the person of the party arrested and in the room (that is in sight), but in a felonious case he might search the whole house and seize such articles, if he has arrested the felon on the spot.

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Every town having over 3000 inhabitants is required by law to have a lockup. Those under 3000 inhabitants may have a lockup to which persons arrested without a warrant may be committed.

G.L. 40. S. 35.

The mayor of each city, except Boston - and in Boston, the Police Commissioner - and the Selectmen of a Town required to maintain a lockup shall annually, in writing recorded with the town clerk, appoint a keeper of the lockup, who shall have care and custody thereof and of persons committed there.

G.L. 40. S. 36.

Such keeper shall have the power of a police officer.

G.L. 40. S. 37.

Such lockups shall at all reasonable hours be accessible to the state police, sheriffs, constables, and police officers for any legal and proper use; and a keeper thereof neglecting to keep it so accessible or refusing to said officers the use of the same shall be fined $10 to $20.

It seems that police stations are lockups within the meaning of the law, and the officer in charge is responsible for the care of and receiving of prisoners just the same as a lockup keeper. Where you expect to lodge a prisoner in a lockup, it is well to have a true copy of the warrant with you; this is enough security for the officer in charge of the station or lockup, as the case may be, to justify him in holding your prisoner.

RETURN ON A WARRANT

On every precept issued by any court the serving officer is required by law to make a full return of his doings thereon. Near the bottom of all warrants you will find the words, "Hereof fail not, and make due return of this precept with your doings thereon". But even though the warrant fails to make this demand, you are bound to make a return. If you act on a precept of the court or a magistrate, you are required to make a return of your doings, because being done on an order of the court, the return is a part of its proceedings and must be entered in the records of the court.

The return requires that you state briefly all that you did in regard to it, and if you were unable to effect the arrest, you must so state and give the reason. On many warrants there is a blank form of return which you may fill out. If this form should not be there, or is not proper for your case, you may make an entire return below it.

FORM OF A RETURN

SUFFOLK, ss. City of Boston April 27, 1930.

By virtue of the within precept, I arrested the within named John Doe on May 9, 1929, and court not being in session, I placed him in the custody of the Suffolk County Jail at Boston, Mass., for safe keeping and now have him in court.

William L. Travers,
Police Officer.

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When an officer has detained a prisoner in a lockup, he must so state the fact on his return.

Every fact that an officer makes known on his return is admissable in evidence and is prima facie proof of the official facts set forth in the return. This is, however, only prima face, and is open to contradiction in suits to which the officer is a party. 3 Allen, Mass. 495.

There is nothing mysterious about a return. A clear, even if informal, statement of what the officer has done, is sufficient. He should make his return in the way executed in his process, so that the court may determine whether or not he has complied with the law.

SUFFOLK, ss. City of Boston May 10, 1930.

I have this day arrested the within named defendant and now have (him or her) in Court, and I have also this day summoned the within named complainant to appear and give evidence before said court as herein commanded.

John L. Donovan,
Police Officer.

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SUFFOLK, ss. City of Boston May 6, 1930.

Executed the within precept, by arresting and bringing into court the within named John Doe.

John Lynch,
Police Officer.

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SUFFOLK, ss. City of Boston July 7, 1928.

By virtue of the within precept I have this day arrested the within named John Doe and have him in court.

Harry Dickenson,
Police Officer.

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SUFFOLK, ss. City of Boston Sept. 6, 1926.

Having made diligent search for the within named John Doe, and being unable to find him, I return this precept without service.

Walter H. Brown,
Police Officer.

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SUFFOLK, ss. City of Boston March 22, 1928.

The within named John Doe having died on February 17, 1928, I therefore return this warrant without service.

Thomas J. Kavanagh,
Police Officer.

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SUFFOLK, ss. City of Boston April 17, 1928.

By virtue of the within precept I arrested the within named John Doe and have him before the court.

I have also secured the property which is the subject of the larceny in this case and have it in court. A schedule of this property is annexed to this precept.

Thomas J. Kavanagh,
Police Officer.

RETURNS TO BE MADE ON A GOVERNOR'S WARRANT

By virtue of the within power, on the . . . . . day of . . . . 19. . I took and received the within named . . . . from the proper authorities of the state of . . . . and conveyed him into this Commonwealth, and into the County of Suffolk, and on the . . . . . day of . . . . . 19 . ., I delivered him into the custody of the Superior Court then sitting at Boston for the transaction of criminal business.

Henry E. Kelley,
Agent within named.

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By virtue of the within power, on the . . . . . day of . . . . 19. . I took and received the within named . . . . from the proper authorities, of the state of . . . . and conveyed him into this Commonwealth, and into the County of Suffolk, on the . . . . . day of . . . . . 19 . ., the Superior Court sitting at Boston for the transaction of criminal business not being in session, I delivered him into the custody of the Keeper of the Suffolk County Jail, he being a proper person to receive him.

Joseph E. Condon,
Agent within named.

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RETURN TO BE MADE ON A WARRANT WHEN THE PERSON IS BAILED IN TRANSIT

In obedience to the within warrant I have arrested the within named . . . . . . and the Superior Court not being in session, and while the said . . . . was in transit to the jail in said county, he was admitted to bail in the sum of $. . . by a master in chancery (or Bail Commissioner) authorized to take bail in criminal cases in said county.

Timothy J. Donovan,
Agent within named.

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RETURN TO BE MADE WHERE A PERSON IS ARRESTED AND BAILED AND FAILS TO APPEAR IN COURT

James Ryan, the fugitive mentioned in these papers, was arrested in Brooklyn, New York, on . . . Date . . . ., and furnished bail for his appearance there. On . . . . . Date . . . . . . the requisition of the Governor of Massachusetts was presented to the Governor of New York, who honored his request and issued his warrant; Ryan failed to appear and his bail was forfeited by Magistrate Hyland of the 6th District Court of Brooklyn, New York. I respectfully return these papers without service.

John McCarthy,
Agent within named.

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COPY OF THE GOVERNOR'S CERTIFICATE TO ACCOMPANY A FOREIGN REQUISITION

I, Governor . . . ., Governor of . . . . . ., do hereby certify that the accompanying application presented by me on behalf of the Commonwealth of Massachusetts for the extradition of . . . . from . . . . .Country . . . . ., is made solely for the purpose of securing his trial, and not in order to enforce the collection of debt, or to avoid the penalty of a bail bond, or for any private purpose whatever, and that if the application be granted the criminal proceedings shall not be used for any said purposes.

Signed . . . .
Governor of Massachusetts.

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DECISIONS AFFECTING ARREST

1. Police officers have all the powers of arrest that a watchman or constable has except the power to serve civil process, within the city to which they are appointed. G.L. 41 - Sect. 98.

2. Police officers, as conservators of the peace, have power to arrest upon view persons who are violating the law and to detain them until they can be brought before a magistrate. 50 Mass. 281.

3. A police officer cannot arrest one who is suspected of committing an offence without a warrant, unless such offence amounts to a felony. 59 Mass. 281.

4. A person may be arrested without a warrant by a constable or police officer upon reasonable suspicion or grounds to believe that such person has committed a felony. 59 Mass. 281.

5. A police officer having reasonable grounds to suspect one of the crime of receiving or aiding in the receiving of stolen goods, knowing them to be stolen, may, without a warrant, arrest the supposed offender. 59 Mass. 281.

6. An officer might arrest without a warrant one who is apparently intoxicated, though such person is not so in fact, and he will not be held liable. 80 Mass. 65.

7. An officer cannot arrest without a warrant for mere probable cause for believing that the defendant is transporting

liquor. He must have proof of this offence before the arrest will be legal. 77 Mass. 194.

8. An officer may arrest a person no matter how the intoxication was produced. It is not necessary that the defendant should be "Guilty of the crime of drunkenness by the voluntary use of intoxicating liquor", so as to be liable to a fine. Com. vs. Coughlin 123 Mass. 436.

9. A police officer, in arresting a person without a warrant for being intoxicated in a public place, is not liable criminally therefor if he acted in good faith and had reasonable cause to believe such person to be intoxicated, although he was not, in fact, intoxicated. 141 Mass. 102.

10. A constable has no authority, without a warrant or previous demand, to forcibly enter a shop at midnight, preceding the Lord's Day and arrest the owner and other persons there engaged in the unlawful keeping for sale of intoxicating liquors and gaming. 81 Mass. 74.

11. An officer may, without a warrant, enter an unfastened door where there is a noise amounting to a breach of the peace, and arrest any person committing a breach of the peace in his presence. 108 Mass. 102.

12. An officer may, without a warrant, arrest any person who violently resists the execution of a lawful search warrant. 108 Mass. 237.

13. An officer making an arrest by virtue of a warrant is not bound to exhibit his warrant or read it to the prisoner before securing him if he resists. 72 Mass. 350.

14. The right to demand of one not known as an officer, to produce his warrant is when the party submits to the arrest and not when he immediately resists. 13 Mass. 321.

15. Where one not generally known as an officer makes an arrest, he must show his authority if demanded. 13 Mass. 321.

16. An officer acting bona fide, may break and enter another's dwelling to arrest him on a criminal charge, although in the mistaken belief that such person is in the house at the time, provided he first requested an entrance and he is guilty of no unnecessary damage. 64 Mass. 501.

17. An officer who obtained entrance to the house of a third person for the purpose of searching for one against whom he holds a warrant on a criminal charge is not bound to exhibit his warrant to the householder, provided the latter has reasonable notice that he is a police officer and acting under a warrant against a person supposed to be there. 83 Mass. 587.

18. An officer in the execution of a valid criminal process is justified in breaking the outer door of a dwelling after demanding admittance and being refused. 79 Mass. 74.

19. Public officers who have a warrant for the arrest of a person charged with a crime (misdemeanor) and who have

reason to believe that such person is in the dwelling of another, after notifying the owner that he has a warrant against the person who is in the house, and demanding admittance, is refused, has a right to enter the outer door of the house for the purpose of serving the warrant. 120 Mass. 190.

20. A policeman, who, without a warrant, arrests a person, having reasonable grounds to suspect that such person has committed a felony, is liable for an illegal arrest if he releases his prisoner without bringing him before a magistrate, even though in fact the innocence of the arrested party has been established. If, however, the arrested person consents to his release, choosing to waive this requirement of the law and to disregard his claim against the officer, he cannot afterwards complain of the omission. Keefe vs. Hart, 213 Mass. 476.

21. A person who has been arrested for any crime and requests or consents to his discharge, intending thereby to release any damages on account of failure to make a complaint, and such agreement was fairly and intelligently made, is not entitled to damage on account of such failure. 144 Mass. 294: 150 Mass. 243.

22. There is no authority, for statutory misdemeanors not amounting to a breach of the peace, to arrest without a warrant unless it is expressly provided for by statute. Com. vs. Wright, 158 Mass. 149 at page 159.

23. One may arrest for "Drunkenness by voluntary use of intoxicating liquor", although the offence was committed in a private dwelling house without causing a public disturbance. 184 Mass. 195: Com. vs. Conlon.

24. In general, in regard to arresting without a warrant for misdemeanors not amounting to a breach of the peace, #22 cited above is ample law for the same: as Field J. C. says that, in summing up the case of Com. vs. Wright 154 Mass. 149, for statutory misdemeanors not amounting to a breach of the peace, there is no authority in an officer to arrest without a warrant unless he is given so by statute.

Chapter Eight

SEARCH WARRANTS

You have seen that the powers of an officer armed with a warrant of arrest are greatly enlarged, and he can do certain things under the warrant that are not allowable without such a warrant. The same applies to the seizure and searching for stolen property, or other property held contrary to law, where an officer is armed with a search warrant.

Our State Constitution provides that the sanctity of a person's home must be preserved at all times, and that it should not be invaded except in strict compliance with the law.

"A man's home has been described as his castle", and should be guarded by the law. As to search of places other than private dwellings, the courts have been considerably more lenient in construing the provisions of the law, but the tendency of the courts in recent decisions is to protect the citizens against unreasonable searches and seizures.

A SEARCH WARRANT is an order in writing, issued by a judge or other magistrate in the name of the state, directed to the proper officer and commanding him to search certain specified premises for unlawful property or for personal property alleged to be stolen, and to bring the same, if found, before the court and usually, also, the body of the person occupying the premises to be dealt with according to law.

In some cases an officer is justified in seizing certain articles without a warrant.

He may seize evidence of a crime that is committed in his presence and even search the room it is in. In a felonious case he may be justified in searching the whole house for such evidence. For instance, an officer buys intoxicating liquor in a near-beer saloon. He can seize the liquor and any other part of such liquor that he may see in the room, but he could not search the whole building without a warrant. On the other hand, in a murder case, if it is suspected that the knife that was used in the killing is secreted in another part of the house, the officer would be justified in searching the whole house for such knife, or other evidence in such case.

In a larceny case the officer is justified in seizing the stolen property wherever it may be found, provided he has arrested the culprit, and whether or not it is found on his person or in his home or place of business. But it seems the goods must actually be in the building he searches to justify such a search. G.L. 266 - 48. 21 Mass. 156.

G.L. 276. S. 1.

A court or justice authorized to issue warrants in criminal cases may, upon complaint on oath that the complainant believes that any of the property or articles hereinafter named are concealed in a particular house or place, is satisfied that there is reasonable cause for such belief, issue a warrant to search for the following property or articles:

FIRST: Personal property stolen, embezzled or obtained by false pretences.

SECOND: Personal property leased or hired, or held as collateral security and fraudulently concealed.

THIRD: Personal property insured against loss or damage by fire which the complainant has reasonable cause to believe has been removed or is concealed for the purpose of defrauding the insurer.

FOURTH: Counterfeit or spurious coin, forged bank notes, and other forged instruments or tools, machines, or materials prepared or provided for making them.

FIFTH: Counterfeits or imitations of a label, trade mark, stamp or form of advertising recorded pursuant to the statutes of the commonwealth, goods upon which such counterfeit or imitation has been impressed, affixed, or used, and any dies, plates, brands, moulds, engravings, printing presses, types, or other tool,machines,or materials prepared or provided for making them.

SIXTH: Diseased animals or carcasses thereof, or any tainted, diseased, corrupted, decayed, or unwholesome meat, fish, vegetables, produce, fruit, or provisions of any kind, or the meat of any calf killed when less than four weeks old or any product thereof, if kept or concealed with intent to kill, sell, or offer the same for sale or for food.

SEVENTH: Diseased animals.

EIGHTH: Books, pamphlets, ballads, printed papers, and other things containing indecent, impure or obscene language, or indecent, impure, or obscene prints, pictures, figures, or descriptions manifestly tending to corrupt the morals of the youth, and intended to be sold, exhibited, loaned, circulated, or distributed, or introduced into any family, school, or place of education, and the type, forms, press, woodcuts, raw material, and mechanical apparatus used and employed in printing and publishing such books, ballads, pamphlets, or printed papers.

NINTH: Drugs, medicines, instruments, and other articles intended to be used for self abuse, or for the prevention of conception, or for the causing of unlawful abortion and the raw materials, tools, machinery, implements, instruments, and personal property used or intended to be used in the manufacture of such drugs, medicines, instruments or other articles.

TENTH: Lottery tickets or other materials unlawfully made, provided, or procured for the purpose of drawing a lottery.

ELEVENTH: Gaming apparatus or implements used or kept and provided to be used in unlawful gaming in any gaming house, or in any building, apartment, or place resorted to for the purpose of unlawful gaming, and the furniture, fixtures, and personal property found in such place at a time when persons are engaged in unlawful gaming.

TWELFTH: Pool tickets or other materials unlawfully made, provided, or procured for the purpose of buying or selling pools.

THIRTEENTH: An unreasonable number of rifles, shotguns, pistols, revolvers, or other dangerous weapons or an unnecessary quantity of ammunition, if kept or concealed for any unlawful purpose.

FOURTEENTH; Bombs and explosives illegally kept.

FIFTEENTH: Oleomargarine colored in imitation of yellow butter, and uncolored oleomargarine, coloring matter, and utensils used or intended to be used in making such colored oleomargarine, which the complainant has reasonable cause to believe are intended for unlawful sale or use.

In addition to those things mentioned above, for Alcoholic Beverages and Alcohol unlawfully kept for sale, etc., see G.L. 138 S. 42-43-44-45-46.

Search and seizure in a gaming house. G.L. 271 - S. 25.
Dog and Cock fighting. G.L. 272 - S. 88.
For a known prostitute. G.L. 272 - S. 9.

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Before a court will issue a search warrant, it must have reasonable cause to believe that the place mentioned in the application is actually resorted to for an unlawful purpose and has the unlawful property named in the warrant on its premises. That is an apparent state of facts by which a prudent and cautious person would be led to believe that the person suspected at the time of the application for the warrant is possessed of property or that the premises sought to be searched have thereon property used or intended to be used in violation of the law.

Probable cause amounts to practically the same degree of belief as is required in arresting a person on reasonable suspicion of felony. You do not have to present evidence that the person is actually guilty or enough to convict to convince the issuing officer of the necessity of issuing a search warrant.

Probable cause does not mean actual or positive cause.

G.L. 276. S. 2.

Search warrants shall designate and describe the place to be searched and the articles to be searched for, and shall be directed to the sheriff or his deputy or to a constable or police officer, commanding him to search, in the daytime, or if the warrant so directs, in the nighttime, the house or place where the property or articles for which he is required to search are believed to be concealed, and to bring such property or articles when found, and the persons in whose possession they are found, before a court or trial justice having jurisdiction.

G.L. 276. S. 3.

If an officer, in the execution of a search warrant, finds property or articles therein described, he shall seize and safely keep them, under the direction of the court or justice, so long as necessary to permit them to be produced or used as evidence on any trial. As soon as may be afterward, all property seized under clauses 1 and 2 of Section 1 shall be restored to the owner thereof; property seized under clause 3 of said Section shall be disposed of as the court or justice orders; property or other articles seized under clause 6 of said Section shall, if, upon a hearing, the court or justice finds that they were so kept or concealed, be destroyed or disposed of in accordance with Section 146 of Chapter 94 by the Board of Health or by an officer designated by the court or justice, otherwise they shall be returned to the owner; diseased animals seized under clause 7 of said Section 1 shall, if, upon a hearing, the court or justice finds that they were kept or concealed in a particular building, place, or enclosure, be destroyed or disposed of by the Division of Animal Industry of the Department of Conservation, without compensation to the owners thereof, otherwise they shall be returned to their owners; property seized under clause 13 of said Section 1, if found to have been kept for an unlawful prupose, shall be forfeited and disposed of as the court or justice orders; and all other articles seized by virtue of such warrants shall be adjudged forfeited and be destroyed or sold as hereinafter provided.

When you receive a search warrant to serve, you should read it all the way through so that you will understand what is required of you. The warrant, like a warrant of arrest, must be issued by a judge or magistrate having jurisdiction of the subject matter, it must be directed to you as a police officer of Boston, or to any officer empowered to serve criminal process in this Commonwealth.

The place to be searched must be:

1. Designated, that is, the description must appear to be of a definite and possible place.

2. The designation as it appears in the several parts of the precept must be consistent.

3. The designation in its application to the place as it exists in fact must give rise to no uncertainty.

In a city or town where houses are numerous and close together, the designation is generally easy - i.e. the dwelling house, #15 Williams Street, Boston, occupied on the first floor by Arthur Kelley. If the occupant is unknown, use the name "John Doe", whose other and true name is unknown. Remember that you can only search the house and floor described in your warrant. A search warrant for 123 Highland Street will not justify you in searching 127 Highland Street, even if 127 was the house you actually wanted to search. Nor will a warrant for 133 Sixth Street, Suite 1, allow you to search any other suite than the one mentioned in the warrant.

Sometimes on a new street, where there are no numbers, or no name to the street, it might be necessary to apply for a search warrant. In a case of this kind, the house might be described as a "white house" on the easterly side of a street running southerly from Albany Street at 126, and being the only house on this side of the street, and occupied by James Kelley.

Where two separate dwellings or houses were connected by a passageway, a description which gave the street and number of the first dwelling as "A certain dwelling, the cellar under the same, and the outbuildings within the curtilage thereof", was held not to include the second dwelling, though connected by the passageway. 140 Mass. 287.

A particular description of the things to be seized under a search warrant is required by the U. S. Constitution, and a special designation of the objects of the search is required by the Massachusetts Constitution. These provisions are jealously guarded and sustained by the courts. Therefore, all officers should be careful to examine their warrants to ascertain if the goods they are about to seize are mentioned in the warrant and sufficiently described. An officer cannot seize a greater amount of goods or property than is described in his warrant. If he does so, or if the goods are not the ones described in his warrant, they will be ordered returned by order of the court and his warrant will not protect him.

Where property is seized that is not described in the warrant, it may be used in evidence, but this does not do away with the liability of the officer for an illegal search. It can be used in evidence even though the officer was a trespasser in seizing it. 189 Mass. 457.

The service of a search warrant has about all the requirements of a warrant of arrest. Demand must be made to enter and be refused, or a reasonable length of time must elapse after such demand before you may break outer doors, but this refusal need not be verbal. If admittance is not given, as soon as may be, you may break doors or windows to gain admittance. The warrant must be shown on demand, but not otherwise, and it need not be read or exposed to destruction.

In a warrant of arrest the warrant need not be shown until the person has submitted to arrest and also in the service of the search warrant - nothing should interfere with the object of the warrant.

If there is reason to believe that the property called for in the warrant is about to be destroyed, or other means are being employed to obstruct the service of the warrant, you need not show it until such destruction or other means of obstruction have ceased.

As in the case of a warrant of arrest, no more force than is necessary may be used, so, in the service of a search warrant, no unnecessary damage may be done in effecting the search.

There is no warrant issued for the search of a private person. If you arrest him, you have the right to search him for evidence or anything he may do to harm himself or others.

Generally speaking, the issuance of a search warrant may be waived by the owner of the premises - as when he voluntarily invites a search. Such waivers are, however, looked upon with suspicion by the courts, so the intention to show the waiver of such rights must clearly appear.

Search warrants must be served in the manner provided by statute and a failure to follow each step provided by the statutes for the issuance of and service of the search warrant will make it void.

Search warrants should be returned in the manner and time provided by statute. It has been held that errors or mistakes in the return will not vitiate the proceedings if all the steps are regular up to and including the service of the search warrants.

Case #1. A warrant which commanded the officer "to search for" certain goods and take them "if found in the possession of A.B.", is void because there is no designation of the place to be searched.

Case #2. "A certain grocery store, dwelling house, and cellar under the same, together with the outbuildings contained within the curtilage thereof, on the southeasterly corner of S and C Streets", is sufficient. 110 Mass. 182.

Case #3. A warrant commanding the search of the "Houses and Stores of T. S. & Company" will not authorize the search of the house of T. S. 13 Mass. 286.

Case #4. A search warrant commanding the search of "Certain buildings occupied by said Conners as a dwelling house", gives no right to enter and search a closet in the house and in the tenement occupied by Newton, and not used by the said Conners. 123 Mass. 420.

Case #5. The warrant by reference to the complaint ordered the search for "Three cases of misses' and women's shoes of the value of $100, a lot of oak-tanned soles of the value of $50, and ten sides of sole leather of the value of $40", which had been stolen. Sufficient description. 3 Allen Mass. 310. But this would not justify the seizure of three cases of men's shoes.

Case #6. A description of premises as numbered 291 and 293 was held to be good in a search of the premises actually numbered 291. 122 Mass. 36.

The thought you should have in mind at all times in reference to search warrants is that the rights of the person against whom the warrant is directed are paramount to the success of the search. Do not unnecessarily resort to harsh means or tactics in the discharge of your duty in this regard.

You are admonished at all times to keep in mind that a search warrant is an extraordinary writ, and should be dealt with accordingly. While it is perfectly obvious that in the course of events and changing economic conditions, laws have been passed by which it has become necessary to issue search warrants in almost every case arising under those laws, the warrant has not lost its dignity. Stick to the letter of the law in the service of a search warrant.

Chapter Nine

SUMMONSES

A "Summons" is a written order from a court or magistrate requiring a person named therein to appear at a certain time and place, or in default, to pay a penalty or undergo punishment.

G.L. 276. S. 24.

Upon complaint for a crime punishable by fine or by imprisonment for not more than one year, with or without a fine, a summons may be issued instead of a warrant of arrest, if, in the judgment of the court or magistrate receiving the complaint, there is no reason to believe that the defendant will not appear upon a summons.

G.L. 276. S. 25.

Such summons shall fix the day and hour of appearance for trial and shall be served by an officer authorized to serve criminal process by giving the defendant in hand or by leaving at his last and usual place of abode, an attested copy, not less than 24 hours before the usual hour of return.

G.L. 276. S. 26.

If a defendant so summoned fails, without reasonable cause,to appear and abide the orders of the court or justice, he shall be considered in contempt of court and may be punished by a fine of not more than $20. A warrant, if necessary, may be issued at any time after the issue of the summons, whether it has been served or not.

A summons, if not given in the hands of the defendant, must be served at his last and usual place of abode. This does not mean that you can serve it at his business address, as this is not his last and usual place of abode. But, on the other hand, if you do leave it at his business address and he answered to it, it would be all right.

It must be served at least 24 hours before the hour mentioned in the summons. Sometimes, and especially in Superior Court cases, you may receive summonses to serve for a case coming up the following morning, the night before. All you can do is to serve the summons anyway, and if they fail to appear, you can notify the court that they did not receive a 24-hour notice, as you did not get your summonses in time. Always serve the summons anyway, even if you do not get it in time for the 24-hour service. The court will then issue a new summons, giving you the proper time to serve it. The defendant usually will appear on the summons, and this does away with the necessity of issuing a second summons. Because of this, be sure to mention the date of your service of the summons, and if served on short notice, put in the hour of such service on your return on the summons.

A summons, to be legal, must have the person's name, date, etc., correctly, as in warrants, but you may take liberties with a summons that would not be allowable with a warrant of arrest, because no injury affects the defendant if he obeys the summons, whether it is legally issued or not. That is, if you find a person's name is spelled wrong and you have not time to get a new summons, you may change it, and if he appears on it, it is all right. On the other hand, if he fails to appear, it is not a legal summons, and you would be compelled to get a new summons, and in this case he is not guilty of contempt of court.

When summonses are issued, the person who issues them usually issues a duplicate. The return is made upon the original. The duplicate, or copy, may or may not have the seal of the court. The one that has the seal of the court is the original, and if both have the seal, either one may be used as the original. In such case, both would have to be signed, if not, then the one which is signed is the original. When you have decided which one is the original, compare them and have the reading on the duplicate exactly the same as on the original.

Any insulting or disrespectful act or words affecting any precept issued by any court is contempt of court towards the court that issued it, and is punishable as such by that court.

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RETURN ON A SUBPOENA

SUFFOLK, ss. Boston, Nov. 25, 1930.

By virtue of the within named precept, I have summoned the within named . . . . . John Doe . . . . . and Mary Jones . . . . . to appear as within directed (by reading to each of them the within precept, by giving them in hand) or (by leaving at the last and usual place of abode) a true and attested copy of the within precept.

Thomas J. Kavanagh,
Police Officer.

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This may be done by writing either by hand or typewriter, in fact, if necessary, duplicate the wording and write or typewrite on the face of the duplicate or copy (usually in the lower left hand corner):

A true copy attest:

Arthur E. Dore,
Police Officer.

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RETURN ON A SUMMONS

SUFFOLK, ss. Boston, Nov. 25, 1930.

By virtue hereof and as herein commanded, I this day, at ten o'clock and thirty minutes in the forenoon, being not less than 24 hours before the return of the within precept, summoned the within named defendant -- John Doe, to appear before the within named Court and answer to the within named complaint, by giving to him in hand (by leaving at his last and usual place of abode) a true and attested copy of this precept.

John M. Dever,
Police Officer.

The Municipal Court of Boston, in addition to the return as above, requires that you state exactly how you served the summons, i.e. by leaving with his sister, Mary Robinson, by leaving it in the mail box, by slipping under the threshold of the door, etc.

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SUBPOENA

In practice a subpoena is practically the same as a summons - a writ issued by a court or magistrate, requiring a person to appear at a certain time and place, or in default to pay a penalty or undergo punishment. It is a process primarily issued to obtain the appearance of witnesses. The issuance of subpoenas is not confined to those empowered to issue warrants and summonses. The legislature, Supreme Court, all other courts, various state commissions, State Fire Marshal, Police Commissioners, and others, have the power to summon witnesses under certain conditions and for reasons regulated by statutes.

A subpoena is very often called a summons because it is used to summon a witness. A subpoena is never used to bring a defendant into court, and a summons is never used to bring a witness into court. In both cases it is contempt of court to fail to comply with the order therein contained, and the remedy is the same, a default warrant or a capias.

The service of a subpoena can be accomplished by any of the following methods.

1. By exhibiting and reading the same to the witness.
2. By giving him in hand an attested copy of the subpoena.
3. By leaving an attested copy at his last and usual place of abode.

Sometimes a witness is summoned forthwith (that is, to appear immediately).

In original cases, witnesses summoned by the Commonwealth must appear without the witness fees and expenses being paid at the time of service. In all other cases it is just the opposite. It is required that a fee and necessary travelling expenses be tendered or paid when the writ is served. Tendered means offered.

Chapter Ten

CRIMINAL LAW AND PROCEDURE

CRIMINAL LAW is that branch of jurisprudence relating to crimes and their punishment. It is designed to protect all persons from the wrongful or wicked acts of others. It defines crime and classifies criminals.

A CRIME is an act committed or omitted in violation of a public law either forbidding or commanding it to be done.

CRIMINOLOGY is that part of knowledge that deals with the deduction and solution of crime.

In Christian countries the Ten Commandments were probably the base of all law. However, the foundation of our Massachusetts law and that of most of the other states, dates backward to the old English "Common Law" which was brought to this country by those early settlers who came here from England. Most of those laws are in force today, but the penalties have been greatly reduced. However, new conditions, new inventions, and changing conditions in our social life necessitated the making of new laws by the Legislature, called "statutory laws". So today our laws are a mixture of the old "common law" and the new "statutory" laws.

The Legislature is the chief law-making body for the State. But the final agency for enforcement of the law is the courts. So ultimately, it is the courts, not the Legislature, that decide what is the law. If the courts will not enforce a statute because they say it is unconstitutional or for any other reason, it seems that it is no longer the law.

Thus, the Supreme Court is sometimes referred to as a law-making body, because when there is any doubt on a particular point of law, it is referred to that body for a decision, and its decision is then the law on that point in Massachusetts.

Theorists give five reasons why the government punishes criminals:

1. The theory of Retribution. That criminals should suffer a punishment commensurate to the crime committed.

2. The theory of Reformation. That all punishment should be meted out with the idea of reforming the criminal.

3. The theory of Deterrence. That punishment will prevent persons from committing crime, and act as a deterrent.

4. The theory of Education. That punishment for crime will teach criminals the duty they owe to society. That is, the law teaches by example.

5. The Absolute theory. The State is supreme. What it does is right, and it is right to punish wrong.

However, the object of punishment for crime is to make those who have committed or will commit criminal acts understand that the government intends to mete out a just punishment for those who transgress its laws.

In connection with criminal acts we hear the words "crime", "sin", and "vice" often mentioned. We get them mixed up. We know these things are forbidden by society. Sin is an act against God's law. Vice is a moral failing and of a private nature. A crime is an act against the law. A crime may be a sin or a vice, but a sin may be a vice and not a crime. All sins are not vice and all vices are not sins, so also all sins or vices may not be crimes.

Things may be wrong morally, but at the same time not criminal.

For instance: I see a man whom I hate, and would jump at an opportunity to kill him. He, while in a drunken stupor, falls into a river and is drowning. There is a life preserver nearby and if I tossed it to him I, no doubt, could save his life, but I failed to do this and he was drowned. Morally, I did wrong in not saving him, but criminally there was nothing wrong in my so doing.

Some criminal wrongs might be all right morally. (Where a man sells milk below the standard, but believes it to be all right.)

A tort is an injury or wrong to the individual. Both crimes and torts are violations of the law. A crime is punished because it is a breach of duty against the community or state. Libel is a crime because it tends towards a breach of the peace of the community. Slander is not a crime because it wrongs the individual. Crimes and torts may or may not be morally wrong. A wrongful act may be both a crime and a tort. i.e. Jones commits an assault and battery on Smith. Smith can have Jones arrested for the crime of "assault and battery" and he could sue him legally for the tort or injury to himself.

A crime is committed where the blow takes place or where it is completed. State vs. Hall. N.C. 909.

In order for a wrongful act to be a crime, it must have been not only prohibited, but it must have been a crime at the time of its commission. Ex post facto laws or retroactive laws are unconstitutional. That is, you cannot punish a man for an act committed some time ago, nor can a greater punishment be inflicted, because a new law has been passed today governing such dereliction.

Generally speaking, in all crimes you are expected to prove that the defendant has done the act alleged, and that he had the necessary criminal intent.

In order that there be a violation, there must be both an overt act and a culpable intent. The overt act in itself does not constitute a crime; a person may take from a restaurant a coat belonging to some other person, thinking he is taking his own coat; there is no crime, he had no criminal intent. Intent alone is not enough to constitute a crime. In the case above, a person may intend to steal a coat and by mistake he took his own coat; there is no crime here either, he had intent to steal all right, but he did not take the goods of another, as required by law.

In most cases where a criminal act has been committed, no intent beyond the knowledge that the defendant knew what he was doing need be alleged, and this intent may be actual or implied.

Actual intent means a deliberate or definite intent to do the act alleged to be criminal. For example: A man attempts to rape a woman. The acts of the criminal show his intent. In breaking and entering a dwelling house and stealing the silverware, the larceny of the silverware shows the intent to commit a felony, which, coupled with the breaking, completes the crime of burglary.

When an act is unlawful and done by the culprit voluntarily, the intent is implied from his doing the act itself.

Sometimes a person intends to commit one crime and actually commits another. This is called implied intent. As, if B intends to kill A, and shoots at him and kills C instead, he is guilty of the murder of C even though he had no intent to do C an injury. Every mature person is presumed to intend the probable and natural results of his voluntary acts.

Where specific intent is required to commit a crime, nothing but such clear, deliberate, specific intent required will suffice. Such as in mayhem, robbery, arson, and malicious mischief.

In every felonious case, to render the guilty party responsible, a vicious will or wicked intent must concur with the wrongful act. But this does not make it necessary, because a man cannot commit a felony unless he has an evil or malicious mind or will, that it is necessary to aver the guilty intent as a substantive part of the crime in describing it in the indictment. It is just the opposite, because the law presumes that every man intends the natural and necessary consequences of his acts, and all that is necessary is to aver in plain language that the defendant committed a criminal act, without alleging the specific intent with which it was done.

In certain cases the law will convict even if there is no criminal intent, as for these cases the law takes the view that a person has a duty of learning or finding out what these offences are. This applies to all statutory misdemeanors not amounting to a breach of the peace. In such cases criminal intent is not a necessary element to make a man guilty of these offences, such as Violation of the Milk Law; Violation of the Traffic Rules, and Violation of the Automobile Law. In all these cases a man can be guilty of offences even if he did not know they were a crime.

Crimes are classified in three general divisions: namely - Treason, Felonies, and Misdemeanors.

TREASON consists in levying war against the United States or against the Commonwealth, or aiding, abetting, or adhering to its enemies. Treason can only be committed by a citizen of the United States, or an alien who resides and accepts the protection of our laws here.

A FELONY is any crime punishable by imprisonment in the State prison. In no case can a sentence in the State prison be for less than 2-1/2 years, unless the culprit is already confined to State prison. Examples of felony: Murder, Robbery, Rape, and Burglary.

A MISDEMEANOR is any crime less than a felony. Examples: Assault and Battery, Drunkenness, Trespass, Violation of a City Ordinance. Misdemeanors are usually punishable by a fine or imprisonment in jail or house of correction, but never in the State Prison.

ATTEMPT TO COMMIT A CRIME. An attempt is an act done in part execution of a design to commit a crime, going beyond mere preparation, but does stop short of actual execution of the crime. A mere preparation to attempt is not an attempt. Attempt is the direct movement toward such commission after preparation is made. Example: A puts his hand in B's pocket with intent to steal, but he is detected before he could get the money. "Attempt to Commit Larceny from the Person."

In most cases when the consummation of the complete crime fails, either because of the non-existence of an essential object, or the employment of inadequate means supposed to be adequate, the prisoner will be held for the crime of Attempt - if the crime were legally possible, the intent clear, the person in a position to do it, and the act adapted to the successful perpetration of it. Allen 9 Mass. 274.

Criminals guilty of a felony may be classified in four different classes, according to their connection with the crime: viz: Principals in the first degree, principals in the second degree, accessories before the fact, and accessories after the fact.

A principal in the first degree is the actual offender, the man in whose guilty mind lay the latest blamable mental cause of the criminal act. Almost always he is the one who does the guilty act. Sometimes he is the person who commits the crime through an innocent third party, as, for instance, when a doctor gives a nurse a poisonous draught and tells her it is medicine to be given to her patient - she does so and the patient dies. The doctor, and not the innocent nurse, is the principal in the first degree. Crimes can have more than one principal.

A principal in the second degree is one, who, without actually engaging in the commission of the crime, is present, aiding and abetting the person who is actually commiting the crime. Example: Where one watches for the police or acts in some way of assistance to the principal felon in the commission of the crime.

Accessory before the fact is one who, not being present, procures, incites, or advises another to commit a felonious offence. Example: A hires B to poison C and B does so, A is an accessory before the fact to B, the murderer.

Principals and Accessories before the fact are all liable to the same penalty under the laws of Massachusetts.

Accessory after the fact is one who, not being the husband or wife, or by consanguinity, affinity, or adoption, the parent, grandparent, child, or grandchild, brother or sister, receives, comforts, aids, or assists another, knowing that he has committed a felony or is accessory before the fact thereto, with intent that he shall avoid arrest, detection, or punishment for his crime. 274 - 4.

Active assistance to the felon is thus necessary. Hence, merely abstaining, however wilfully, from arresting a known felon, and so leaving him to escape, is not enough to make the sympathizer guilty, as an accessory after the fact. Example: A is a lodging house keeper. He lets a room to B. Later on he sees B's picture in the paper as a man who committed a felony and is wanted by the police. He does nothing about it. Would he be an accessory after the fact? No. Because he did nothing to help him escape and he had no intent that B avoid arrest or detection. He is not bound to notify the police.

In treason, all persons who are in any way concerned in the crime are principals, because the offence is so grave that all who take part in it in any manner are considered equally guilty.

In felonies, there can be both accessories before and after the fact, but there can be no accessories before the fact to manslaughter, because it is considered a crime without premeditation.

In misdemeanors, all participators are considered equally guilty, because the offence is of so little consequence that it would be impractical to consider them otherwise. So there can be no accessories to a misdemeanor.

In some cases the person who actually committed the crime would not be criminally liable, because the law takes the view that he is not capable of forming the necessary criminal intent. For instance, a child under seven years of age is conclusively presumed to be incapable of committing a crime, and cannot be convicted under any circumstances. A child between seven and fourteen is presumed to be incapable of committing a crime, but the government may show that he had the necessary knowledge to form the desired criminal intent. After the child has reached fourteen, his responsibility is the same as that of any other person.

Insanity is an excuse for a crime if the person is so insane as not to be able to form the necessary criminal intent.

Coercion by the husband is a valid excuse or defence for all crimes except murder and treason committed by the wife. The presumption of coercion always arises if the wife assists her husband in the commission of a crime, or if she alone commits the crime while in his presence. It is a question of fact for the jury.

Drunkenness, ordinarily, is not an excuse for any criminal offence, no matter what the extent of the intoxication. But in crimes requiring specific intent, intoxication may be material to show there could be no specific intent. The presumption is that, though intoxicated, the defendant was capable of entertaining the necessary criminal intent.

Sometimes an act which ordinarily, if committed, would be a crime, is justifiable, and therefore no crime. Such as where an act is done with full sanction of the law; i.e. an arrest by a sheriff or police officer, or any person who is called upon to assist them;

Where the parents correct their children in a reasonable manner;

When committed in self defence, or in the defence of one's property. In such a case, any force that is necessary may be resorted to, except that in the defence of property, killing would not be allowable.

It seems that conductors, motormen, etc., have the right to eject persons refusing to obey lawful or reasonable regulations of conduct while passengers on street cars or other common carriers.

Anybody has the right to use force in restraining an insane person, where he is acting in such a manner as to be dangerous to himself or others.

Coercion or duress might be a good excuse, if the fear was of great bodily harm or death. But it would not be an excuse in a murder case, because no one has the right to kill another innocent person to save his own life.

One is not liable for an accident occurring during the doing of a lawful act which is being done in a lawful manner.

In all the foregoing cases, the use of force must be reasonable and proper, and the use of excessive force in any of the above cases makes it criminal and punishable.

JURISDICTION. All states are separate sovereignties for the purpose of enforcing the laws on crimes committed within their borders. A crime committed in one state cannot be punished by another state. But if A sends poison from one state to another with intent to kill B and the poison does so and B dies, A can be punished in the state where the death occurred, or the crime culminates, if that state can get jurisdiction of him.

Every state has jurisdiction of all crimes committed on the water within the three-mile limit. All crimes committed beyond this limit are punishable by the nation under whose flag the vessel is plying, unless in Massachusetts, a person is feloniously assaulted at sea and brought into this state and dies here - Massachusetts will take jurisdiction of the case and try the murderer if he is caught, no matter under what flag the crime was committed.

Where a river is the boundary line between two states, the middle of the river (the thread of the river) is the actual boundary line. There is an old case where a man standing in one state, shot and killed another in a boundary state by shooting across the line. He was held to have committed the crime where the shot struck, because that was where the crime culminated. State vs. Hall, 114 N.C. 909.

In Massachusetts, a crime committed within 100 rods of the boundary line between two counties is punishable in either county. 277 - 57.

A crime committed within 50 rods of the boundary line between two judicial districts is punishable in either district. 218 - 46.

Larceny is a continuous offence, and a person may be tried in the county where he stole the goods, or where he is found in possession of the goods. This also applies to larceny in one state, and the culprit found in possession of the goods in another. He is liable in the state where he steals the goods or the state where he is found in possession of the goods. But this will not apply to a similar case between two nations.

One who has been tried upon facts and merits of a case and acquitted, cannot be afterwards tried for the same offence. U. S. Constitution, 5th Amendment, and our State Constitution provide that no person shall be twice put in jeopardy of life or limb for the same offence.

This rule also applies when two crimes of the same grade have been committed and the lesser crime merges into the greater. Acquittal is a bar to later prosecutions for the other offence. 13 Allen 555; 17 Pick. 400. 21 Pick. 509.

Chapter Eleven

CRIMINAL LAW AND PROCEDURE

Homicide is the killing of a human being by another human being, through conduct that causes death within a year and a day from the time of the act or omission to which the death is attributable. It is either justifiable, excusable, or felonious. To constitute homicide it is essential that a human being be killed. The killing of a child in its mother's womb may be abortion - but it is not homicide, for until it is born, it is not regarded in law as a human being.

JUSTIFIABLE HOMICIDE is the taking of a life by an act which the law requires or commands as a strict legal duty. Such as the killing by a sheriff of a condemned criminal on a death warrant, or killing by a soldier in battle with an enemy, also the killing by a police officer of a person in the commission of a felonious offence where no other means existed to prevent the culmination of such offence.

The acts of a police officer, in compliance with his supposed duty, are justifiable, and he will be protected against the consequences,(unless they are manifestly beyond the scope of his authority, and such that a man of ordinary sense and understanding would know them to be illegal) where he acts in good faith and without malice. Wharton on Homicide, 3rd Edition, P. 731.

The foregoing principle should not be construed as conferring immunity on a police officer who wilfully or through culpable negligence acts so as to endanger the lives of innocent third parties, in the discharge of his duties to prevent an escape or to effect an arrest.

Where an officer fired on a prisoner fleeing down a public street, which apparently was clear, under circumstances that would have justified the killing of a prisoner, and thereby accidently killed a young woman whom he did not see at the time he shot, it was held that the homicide was excusable.

EXCUSABLE HOMICIDE is the causing of the killing of a human being as the result of an accident or misadventure in doing a lawful act in a lawful manner, or which is done in self defence, where there is danger of death or serious injury. For instance, a lawful operation performed by a physician with due care and skill, causes the death of the patient - this is excusable. To excuse a killing on the grounds of self defence, the killing must have been necessary to save the life of the person who was unlawfully attacked, or to save the life of a person whom he is legally bound to protect, or to save great bodily injury to himself or such person. There must be an imminent danger or reason to believe such danger existed and no necessity will exist until the person, if not in his own house, has retreated to the wall - that is, as far as he can. The person doing the killing must not have been the aggressor and intentionally have provoked the difficulty; but if he withdraws in good faith and his adversary follows to renew the fight and does so, the latter becomes the aggressor.

FELONIOUS HOMICIDE is the killing of a human being without any legal justification or excuse. It is divided into two classes:

1. Murder
2. Manslaughter

MURDER

Murder is the unlawful killing of a human being with malice aforethought. In Massachusetts there are two degrees of murder. Murder in the first degree is as follows:

1. Killing another human being unlawfully with malice aforethought either express or implied and deliberately premeditated.
2. Killing another human being unlawfully with extreme cruelty or atrocity. Example: A father has the right to chastise his child, but if a father beat up his child with a heavy iron bar, thereby causing the child's death, it would be murder with extreme cruelty or atrocity.
3. Killing another human being while in the commission of a crime punishable by death or imprisonment for life. Example: A, while in the commission of a hold-up (robbery, punishable by life imprisonment), throws out from a window of the house a bundle of stolen goods and unintentionally kills B, who was outside.

Murder in the second degree is murder that does not appear to be in the first degree. It is murder committed where there is some slight circumstance that goes to palliate the offence so that it would not be murder in the first degree. Generally speaking, any death caused while in the commission of a felony is murder. If the felony is punishable by death or imprisonment for life, it is murder in the first degree, but if it is punishable by any sentence less than death or imprisonment for life, it is murder in the second degree. The jury finds the degree of murder.

Malice in murder does not have to be a hatred or personal ill will towards the person who is killed, nor even an actual intent to kill him, or to take anyone's life. The malice aforethought required by law need not exist for any length of time before the act, but may arise simultaneously with the act which causes the death. That is, it is sufficient if it existed at the time of the commission of the act that caused the death.

Express malice means an express criminal intention to kill the deceased or some other person for whom the wound was intended.

Implied malice means that, where no express malice or criminal purpose can be proved by direct evidence, yet malice must be inferred from facts and circumstances which are proven. Example: Where death is unintentionally caused by an act done for the purpose of committing a felony and this act is likely in itself to cause death, or where a man deliberately fires a gun into a crowd and causes the death of someone in the crowd.

Malice aforethought can exist even when the act is unpremeditated. It might mean any of the following intentions preceding or co-existing with the act or omission which is the cause of the death.

(a) Any intention to kill, or cause grievous bodily injury to a person, whether he be the one who is actually killed or not, except where such killing is inflicted in the heat of a sudden passion, brought on by an adequate provocation.

(b) Where there is a knowledge that the act contemplated will probably cause the death of or grievous bodily injury to any person, and does cause the death of any person, whether or not he is the one against whom the act is directed, even though such knowledge is accompanied by unconcern as to whether or not death or grievous bodily injury is accomplished or not, or a wish that it may not be so caused.

(c) An intent to commit a felony.

(d) Any intent to forcibly oppose a police officer or other peace officer lawfully engaged in arresting, keeping in custody, or imprisoning any person, or such officers in keeping the peace, dispersing an unlawful assembly, provided the offender has knowledge that the person killed was a police officer or peace officer so employed.

In some cases a man can be convicted of killing another who is in fact killed by another, or kills himself. Example: A husband assaulted his wife and she, in order to escape him, jumped out the window and was killed by the fall. The husband could be convicted of murder if it could be proven that he intended to make her jump out. Example: A doctor gave a nurse poison to administer to his patient, the nurse in good faith does so - the doctor and not the innocent nurse is guilty of the murder if the patient dies and he had the proper intent.

Death may be caused by omitting to act as well as acting. Example: The defendant was delivered of a child by night on the roadside and left the child there without any clothes to protect it from the weather. The child died - it was held to be murder.

A person, in attempting to commit suicide, accidentally kills another - held to be manslaughter in Massachusetts, but it was believed that the decision of the jury was too lenient and that it might have been murder. 123 Mass. 422.

A person who is present, aiding another to commit suicide, is guilty of murder in the second degree. 13 Mass. 356.

A, B, C, D, and E set out to commit a hold-up. One keeps watch at an appointed place, another is at the wheel of an auto ready to make a get-away for the others, another holds up the watchman and kills him, the others get the money out of the building even before the watchman was killed, and then they all get away. Ruled that all are equally guilty and all are principals in the murder of the watchman. Com. vs. Devereaux et al. 256 Mass. 387.

PROOF in murder: That the accused killed a certain person as described by certain means as alleged. This involves proof as follows:

1. THAT THE PERSON ALLEGED TO HAVE BEEN KILLED IS DEAD.

In homicide cases, death must be proven directly, either by finding and identifying the dead body, or by proof of criminal violence in such a manner as to account for the disappearance of the body. Convictions have been upheld where only charred or mutilated parts of the body have been found, the victim having been burned, cut to pieces, or subjected to the action of acid, and convictions have been held sufficiently proved even in cases where neither the body nor any portion thereof has been found, if there was presumptive or circumstantial evidence strong enough to show that enough violence, sufficient to produce death, was exerted in such a manner as to account for the disappearance of the body.

2. THAT HE DIED IN CONSEQUENCE OF AN INJURY RECEIVED BY HIM.

If a man receives a bullet wound and is brought to the hospital and is put under ether to extract the bullet, or to undergo an operation and he dies while under ether or from the effects of it - he died in consequence of the wound received and it would still be murder. But if, under the same circumstances, he contracted scarlet fever at the hospital and died, he would have died from some other cause than the wound, and under such circumstances the defendant would be guilty of an assault to kill, etc.

3. THAT THE INJURY WAS THE RESULT OF AN ACT OF THE ACCUSED.
4. THAT THE DEATH TOOK PLACE WITHIN A YEAR AND A DAY OF SUCH ACT.
5. THAT THE KILLING WAS WITH MALICE AFORETHOUGHT.

That is, that the accused was in one or more of the states of mind described above, or that the killing was with extreme cruelty or atrocity, or in the commission of a felony punishable by death or imprisonment for life.

MANSLAUGHTER

MANSLAUGHTER is the unlawful killing of a human being without malice aforethought and is voluntary or involuntary. The difference between murder and manslaughter is malice aforethought.

VOLUNTARY MANSLAUGHTER is where there is a real desire to kill, but it is committed in the heat of a sudden passion caused by an adequate provocation.

In voluntary manslaughter, there must be a provocation so great that, in law, it would be enough to excite an uncontrollable passion in the mind of any reasonable person; such act must be done under the heat of this passion, and the provocation must not be caused or sought as a pretence for the killing or doing bodily injury. But the act must be done at the time and under the influence of the provocation.

Adequate provocation: Assault and battery; inflicting actual bodily injury or a gross insult; unlawful imprisonment; the sight by a husband of a wife in an actual act of adultery; a larceny from the person or from a building in control of an individual, if the killing is done in the heat of the moment.

Inadequate provocation: Knowledge by a brother of a female of her seduction; injuries to property; insulting or abusive words; rejection of a suitor; an assault and battery by a small child.

INVOLUNTARY MANSLAUGHTER is an unintentional homicide caused in the commission of some unlawful act which does not amount to a felony, or endanger life, or in the performance of an act required by law. Example: D was repairing a R.R. track and took up the rails within a short time before the arrival of a train. He sent a flagman back, but not far enough. The engineer of the train was not keeping a sufficient outlook, which prevented him from seeing the flagman in time to stop the train. Passengers were killed - D was held guilty of manslaughter.

The commission of an unlawful act in involuntary manslaughter must be "malum in se" (bad in itself) and not merely "malum prohibitam" (prohibited by law). Thus, the driving of a taxicab in slight excess of the speed limit fixed by law is not the kind of unlawful act contemplated, but voluntarily engaging in an affray is such an act. To use an immoderate amount of force in effecting the arrest of a person is an unlawful act, and if death resulted from such act, it would be manslaughter, at least, on the part of the arresting officer.

Instances of culpable negligence in performing an act required by law are: Gross negligence or inattention by those in charge of, controlling, or operating trains in the discharge of their duties; culpable failure on the part of a parent to provide food, shelter, and medicine or medical attention for his helpless child when able to do it.

Instances of culpable negligence in performing a lawful act are: Pointing a pistol at a person in fun and pulling the trigger, believing - but without taking reasonable precautions to ascertain - that it was unloaded; carelessly leaving poisonous drugs where they may endanger life; negligently conducting blasting operations where a house is within danger of being hit with flying pieces, etc.

Where there is no legal duty to act, there can, of course, be no neglect. Thus, where a stranger makes no effort to save a drowning person, or a person allows a mendicant to freeze or starve to death, no crime is committed.

Case: Indictment for manslaughter. Defendant struck a girl who was holding a baby, the blow not being severe. The screams of the girl sent the child into convulsions, from which it died. There was evidence of the child teething at the time, and that the convulsions might have been caused thereby. Court charged the jury that if the child would not have died but for the assault, the jury might convict. The jury found the culprit not guilty, largely because of the evidence of the teething, which might have caused death.

Case: A man held himself out as a physician and in that capacity was engaged to treat a woman. He directed that she be wrapped up in blankets soaked in kerosene, as a result of which the woman died. This was held to be manslaughter for the double reason that - first, if he did not know his act to be dangerous, then he was culpably negligent in assuming to be a physician and should be held guilty; and, second - if he knew of the danger, then he was guilty for having caused her to be wrapped in the blankets, knowing them to be dangerous. 138 Mass. 165.

Proof in manslaughter is the same as in murder, except that the killing must be without malice aforethought.

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RAPE

Rape is the carnal knowledge of a female by force and against her will, or the carnal knowledge and abuse of a female child under the age of sixteen.

The carnal knowledge must be unlawfully had, therefore, a husband who has sexual intercourse with his wife by force and without her consent, is not guilty of this offence; but if he helped someone else to have such intercourse with his wife, he is guilty.

Penetration, however slight, is enough, whether emission occurs or not, and is sufficient to constitute carnal knowledge.

Any male above the age of fourteen, if physically able to commit the act, may be guilty of rape. A boy under fourteen is conclusively presumed to be incapable of committing the crime of rape. But he might be convicted of attempt to commit rape or as a principal in the second degree in helping someone else to commit rape.

The offence may be committed upon any female of any age, on a man's mistress or upon a common prostitute.

Force, actual or constructive, and want of consent, are indispensable in rape, but the force involved in the act of penetration is alone sufficient force where there is no consent.

Consent cannot be given by a woman so idiotic as to be incapable of consenting, and a man having sexual intercourse with her, knowing her to be insane, is guilty of rape.

So also where the woman is unconscious, insensible or asleep, or where her apparent consent was extorted by violence to her person or fear of such violence.

In Massachusetts, a child under sixteen is incapable of consenting, by statute law.

Where the actual consent to the connection was obtained by fraud, there is no rape; thus, a woman agrees to sexual intercourse with a physician on his false representation that the act is part of the required treatment - or where a man successfully passes himself off as her husband and is admitted by her to connection as such - the crime of rape is not committed. There is some conflict as to these cases, but probably not rape in Massachusetts.

If a woman is fraudulently induced to submit to an intercourse when she doesn't know the nature of the act, the offence is rape. Case: The woman remained passive upon the representations of a physician that a surgical operation was about to be performed upon her, the act was deemed to be rape; she consented to one thing, and the man did another by fraud.

Mere verbal protestations and a pretence of resisting, do not, of course, show want of consent, but the contrary, and where a woman fails to take such measures to frustrate the execution of the man's design, as she is able to do and as are called for by the circumstances, the same conclusions may be drawn.

If rape is committed, subsequent condonation on the part of the woman is no defence.

If a woman consents to carnal intercourse, compelled by threats and fear of immediate bodily harm, the intimidation vitiates her consent, and supplies the place of force, and the act is rape.

PROOF: (a) That the accused had carnal knowledge of a certain female as alleged.

(b) That the act was done by force or violence, or assault or putting into fear, and without her consent, or that the female was under the age of sixteen.

ABDUCTION

(a) The unlawful taking or enticing by force or fraud from her father's house, or wherever else she may be found, of an unmarried female under the age of sixteen for the purpose of effecting a secret or clandestine marriage. M.

(b) The unlawful taking or enticing by force or fraud from her father's house, or wherever else she may be found, of a woman or girl for the purpose of unlawful sexual intercourse. F. G.L. 272, Sects. 1 and 2.

The mischief in these cases lies in the fact of taking a woman against her will for money, and afterwards marrying her or causing her to be defiled. This law is especially aimed against the taking of certain females under the age of sixteen for marriage or immoral purposes.

The statute prohibits the abduction of girls under sixteen and does not require want of consent on the girl's part, and consent is no defence, nor is it an excuse to say that the girl was believed to be older.

Abduction may be generally defined as the taking of a female without her consent, or without the consent of her parents or guardian, for the purpose of marriage or prostitution.

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MAYHEM

Mayhem, at common law, is "a hurt of any part of a man's body whereby he is rendered less able, in fighting, either to defend himself or annoy his adversary". Bishop, Vol. 2, p. 279.

In Massachusetts, the law is "Whoever, with malicious intent to maim or disfigure, cuts off or maims the tongue, puts out or destroys an eye, cuts, slits, or mutilates the nose or lip, cuts out or tears off an ear, or cuts off or disables a limb or member of another, and whoever is privy to such intent, or whoever with intent to maim or disfigure, assaults a person with a dangerous weapon, substance or chemical, and by such assault disfigures, cripples, or inflicts serious or permanent injury, or aiding in such act." 20 yrs. S.P. G.L. 265 - 14.

The injury inflicted must be wilfully and maliciously done, but need not be premeditated. If the hurt is done in necessary self defence, it is not mayhem, because the injury must be done wilfully and maliciously.

A person inflicting such hurt upon himself is guilty of this offence, and if another does it at his request, both are guilty.

Case: In order to ply his trade as a beggar more successfully, A persuaded B to cut off his hand. On an indictment against B for maiming A, it was held that A's consent to the act was no defence, and B was convicted. 119 Mass. 350.

PROOF: (a) That the accused inflicted on a certain person a certain injury in the manner alleged.

(b) The facts and circumstances of the act showing such injury to have been inflicted intentionally and maliciously.

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ABORTION

Abortion is the unlawful causing of the miscarriage of a woman by drugs or instruments. This is a felonious offence in Massachusetts.

Consent of the woman is no defence, but a woman may be guilty of abortion where she commits the crime upon herself. Where she consents to being practiced upon by another, she is not deemed an accomplice, and her testimony is not required by law to be corroborated by another, nor is the court required to instruct the jury, as in other cases, that it is unsafe to convict on the testimony of an accomplice.

At an early period this seems to have been deemed homicide though, as we have seen, this is no longer the case in Massachusetts.

If the abortion is necessary to save the life of the mother, no offence is committed. In this case, the affidavits of two doctors are required to the effect that the operation was necessary to save life.

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ASSAULT

Assault is an attempt with force or violence to do a corporeal, i.e., bodily, injury to another.

There must be an apparent intent to inflict a corporeal hurt to another. On the question of ability to inflict the battery, the courts are divided. Some hold that there must be a present ability to inflict the injury, while others hold that an apparent ability is sufficient.

Raising a stick over another's head as if to strike him, presenting a firearm ready for use within range of another, striking at another with a cane or fist, assuming a threatening attitude and hurrying towards another, are examples of assaults.

Some overt act is necessary in any assault. Mere preparation, such as unfastening the catch on a pistol holster in order that the pistol may be drawn, or picking up a stone at a considerable distance from another, without making any attempt or offer to throw it, is not an assault.

The force or violence must be physical; mere words, however threatening, or insulting gestures, are not by themselves sufficient to constitute an assault.

Where the circumstances known to the person menaced clearly negatives the necessary intent, there is no assault. Thus, where a person accompanies an apparent attempt to strike another by an announcement in some form of his intent not to strike, there is no assault. Case: Defendant raised a whip and shook it at the prosecutor within striking distance, saying, "If you were not an old man, I would knock you down." Not an assault.

Viewed solely as an attempt to commit a battery, there must be an actual or constructive intent to do a bodily injury to another, and an act of unlawful violence or force begun to be executed with a view of inflicting such hurt. How such purpose is defeated is immaterial.

The following have been held to be assaults: Riding after a person so as to compel him to seek cover or safety in an enclosure to avoid a beating, though the assailant was never near enough to hit him. Rushing upon another in a threatening manner, although before quite close enough to strike, the person so threatened strikes in self defence, or the attack is frustrated by a third person.

It is also an assault where the person, in order to avert the taking effect of the unlawful violence, yields to a demand by his assailant. Thus, where A, being within striking distance of B, raises a weapon for the purpose of unlawfully striking him, stating that he will strike unless B does a certain thing, and B, doing that thing, thereby averts the blow - A commits an assault.

It is not a defence to a charge of assault that for some reason, unknown to the assailants, the attempt was bound to fail. Thus, where a person loads a revolver with what he believes to be good cartridges and, pointing his revolver at a person, pulls the trigger - he is guilty of an assault although the cartridge was so defective that it could not be used. The same principle was applied to a case where a person in a house shoots through the roof at a place where he supposed a policeman was concealed, though the policeman was concealed at another place on the roof.

The intent need not be to injure a particular person, and mere recklessness may supply the intent. Thus, where one strikes at A, believing him to be B, he is guilty of assaulting A - and where one fires a loaded revolver at another recklessly, not knowing or seeking to find out whether it is loaded or not, he commits an assault.

To constitute an assault, however, it is unnecessary that there be an actual or constructive intent to hurt anyone or a believed ability to inflict such hurt.

If there be, to the person set upon, an apparent present intent to inflict injury, coupled with an apparent ability to do so, it is sufficient.

The best opinion, however, appears to be that if a person points a gun at another, or threatens him with a club, stick, or other weapon, whereby he is reasonably put in fear, which causes him to act on the defensive or retreat, there is an assault committed, whether or not there actually was an intent to injure. In Com. vs. White, 110 Mass. 407, it was held that a man who pointed a gun at another was guilty of an assault, although he knew it was not loaded and he had no intention of inflicting an injury on this person. "It is not the secret intention of the assaulting party," said the court, "Nor the undisclosed fact of his inability or ability to commit a battery, that is material, but what his conduct and the attending circumstances denote at the time to the party assaulted. If to him they indicate an attack, he is justified in resorting to defensive action. The same rule applies to the proof necessary to sustain a criminal complaint for an assault. It is the outward demonstration that constitutes the mischief which is punishable as a breach of the peace."

There must, however, be an apparent present ability. To aim a pistol at a man at such a distance that it clearly could not injure would not be an assault.

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BATTERY

Battery is the actual doing of any unpermitted corporeal hurt to another. To constitute a battery it is essential that the person of another be touched either by the aggressor himself or some substance set in motion by him. Every battery includes an assault.

It is a battery to spit on another; to push a third person against him; to set a dog on him, which bit him; to cut his clothes while he is wearing them, though without touching him or intending to touch his person; to shoot him, or to cause him to take poison. So it is a battery for a man to fondle a woman against her will who is not his wife. The force may be applied through conductors more or less close. Thus, to strike the dress of a person assailed, or the horse on which he is riding, may be as much a battery as to strike him in the face. Sending an explosive machine by express from New York to San Francisco may be as much a battery as taking it to San Francisco in person. It is not a battery to lay hands on another to attract his attention, or, in falling, to seize another for support. Sending a missile into a crowd is also a battery on anyone it hits; and so is the use, on the part of one who is excused in using force, of more force than is necessary or lawful. Wharton, Vol. 1, pgs. 566-567.

Actual injury is not necessary, since the least violation of the person is sufficient. Case: A caught hold of the reins with which B was driving a horse and sleigh, and turned the horse around, but did not touch B. Held guilty. The force which A applied to the horse and sleigh just as effectively touched the person of B as if he had taken him by the ears and turned him around.

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ASSAULT WITH INTENT TO MURDER

This is an assault aggravated by the concurrence of a specific intent to murder - in other words, it is an attempt to murder.

As in other attempts, there must be an overt act beyond mere preparation or threats, or an attempt to make an attempt. Thus, it was held no assault with intent to murder where the defendant drew a pistol from his hip pocket but, because of its being caught in the lining of his coat, he did not make any actual attempt to inflict an injury with the pistol on the person alleged to have been assaulted.

To constitute an assault with intent to murder by firearms, it is not necessary that the weapon be discharged; and in no case is the actual infliction of injury necessary. Thus, where a man with intent to murder deliberately assaults a man by shooting at him, the fact that he missed does not alter the character of the offence.

Where the intent to murder exists, the fact that for some reason unknown the actual consummation of the murder is impossible by the means employed does not prevent the person using them from being guilty of an assault with intent to commit murder, where the means are apparently adapted to the end in view. Thus, where a person, intending to murder another, loads his rifle with what he believes to be a good cartridge, and aims and discharges his rifle at the other, it is no defence that the cartridge was so defectively loaded that the bullet did not leave the gun.

In order to constitute this offence, the specific intent to murder must exist, and the facts must be such that had death been caused by the act the offence would be murder, but the converse of this latter proposition is not always true, as a man may be guilty of murder without intending to kill. Thus, where a workman recklessly throws a heavy object from the roof of a building into the street, where he knows people are likely to be passing, and thereby kills a person, he may be guilty of murder, but where the person is merely injured, the offence of assault with intent to commit murder is not committed.

To constitute this offence, there must exist a specific intent to murder the person assaulted and this intent must exist at the time of the assault.

A general felonious intent of a specific design to commit another felony is not sufficient, and where a person is too drunk to entertain the specific intent, the offence is not committed. But where the accused, intending to murder A, shoots at and wounds B, mistaking him for A, he is guilty of assaulting B with intent to murder him. So also, where a man fires into a group with intent to murder someone, he is guilty of an assault with intent to murder each member of the group.

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ASSAULT WITH INTENT TO KILL

This offence differs from assault with intent to murder in the lack of the elements of malice necessary to constitute the latter crime. It is an attempt to take human life in a sudden heat of passion.

The specific intent to kill is necessary and the act must be done under circumstances that, had death ensued, the offence would have been manslaughter.

What has been said under the head of assault with intent to commit murder applies to the offence of assault with intent to commit manslaughter.

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An assault with intent to commit rape, robbery, sodomy, or any other felony, requires an intent to commit the particular felony and an overt act that amounts to an assault upon the person about to be raped, robbed, etc. Once an assault has been committed with the necessary criminal intent to commit a specific felony, it is no defence that the perpetrator voluntarily desisted, or that the injured person condoned the offence.

The offence is committed when the overt act towards the commission of the offence amounts to an assault, provided the offence would have been the felony named if carried out.

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Assault and battery with a dangerous weapon: Whoever commits an assault and battery upon another by means of a dangerous weapon shall be punished by imprisonment in the state prison for not more than 10 years, or by a fine of not more than $1000 or imprisonment in jail or house for not more than 2-1/2 years. G.L. 265 - 15 A.

Weapons, etc., are dangerous when they are used in such a manner that they are likely to produce death or great bodily harm. Mere capability of being so used is not enough.

Boiling water may be used so as to be a dangerous weapon, and a pistol may be used so as not to be dangerous.

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Assault to do bodily harm: This is an assault aggravated by the specific intent to do bodily harm to the person injured, by means of the force employed.

It is not necessary that any battery actually ensue, or if bodily harm is actually inflicted, that it be of the kind intended. Where the accused acts in a reckless disregard for the safety of others, it is not a defence that he did not have in mind the particular person injured.

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ROBBERY

Robbery is the felonious taking and carrying away of the personal property of another from his person or in his presence, by violence or putting into fear.

Robbery includes larceny and the elements of that offence must always be present.

Thus, it is not robbery to take one's own property, unless the person from whom it is taken has a special property in the goods and the right to possession; nor is it robbery to take property that is honestly believed to be one's own, or to take it merely for temporary use.

It is not necessary that the person from whom the property is taken be the actual owner - it is enough if he has custody or possession that is good against the taker.

The property must be taken from the person or presence of another; but to be in the presence, it is not necessary that the owner be within any certain distance of his property; it is enough if he is near enough to be in control of his property. Thus, where some persons entered a house and forced the owner by threats to disclose the hiding place of valuables in an adjoining room, and then, leaving the owner tied, went into such room and stole the valuables, the offence was held to be robbery.

The taking must be against the owner's will by means of violence or intimidation. The violence or intimidation must precede or accompany the taking. So, where property is taken by stealth from the person of the owner - it is not robbery if the thief overcomes a forcible effort to retake it, or the owner is deterred by the threats of the thief from making an attempt to retake it.

The violence must be actual violence to the person, but the amount of violence used is immaterial. It is enough where it overcomes the actual resistance of the person robbed, or puts him in such a position that he makes no resistance, or suffices to overcome the resistance offered by a chain or other fastening by which the article is attached to the person. Where an article is merely snatched out of another's hand or a pocket is picked by stealth, and no other force is used and the owner is not put in fear, the offence is not robbery.

But if, in snatching the article, resistance is overcome, there is sufficient violence - as where a woman's earring is torn from her ear, or a hair ornament in her hair is snatched away. So also, when a person's attention is diverted by being jostled by a confederate of the pickpocket, who is thus enabled to steal the person's watch - it is robbery. But this is an extreme case.

Other instances of robbery by violence are where a man is knocked insensible and his pockets rifled, and where an officer steals property from the person of a prisoner in his charge, after handcuffing him on the pretext of preventing his escape.

It is equally robbery whether the robber prevents resistance by rendering his victim physically incapable of making any, or by putting him, by threats or menaces, in such fear that he is warranted in making none.

The fear must be reasonable and a well-founded apprehension of a present or future danger, and the goods must be taken while such apprehension exists. The danger apprehended may be, for instance, his own death or some bodily harm, or the destruction of his habitation, or a prosecution for sodomy.

Where a person is put in fear under a charge of sodomy, it is immaterial whether he is innocent or guilty of the offence charged. The danger of being prosecuted for any other offence is not enough to make it robbery.

PROOF: (a) The larceny of the property. See proof under larceny.

(b) That such larceny was from the person or presence of the person alleged to have been robbed.

(c) That the taking was by violence or putting into fear, as alleged.

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FALSE IMPRISONMENT

False imprisonment is the unlawful restraint of the liberty of a person, and involves the unlawful detention of the body of another without his consent. No actual force is necessary. Fraud or fear is enough. Where one stops a person on the highway and prevents him from going on his way by threats, this offence is committed.

The word "false" in this crime means "unlawful" and must be an unlawful and total restraint of the freedom and locomotion of another. It is not necessary to prove that the wrongdoer even touched the one imprisoned, nor is violence necessary for this crime to be committed.

The detention must be involuntary. Therefore, where one was decoyed as a joke and went willingly, there was held to be no false imprisonment.

A person who procures the false arrest of another, though he is not present, without legal authority, is guilty.

KIDNAPPING

Kidnapping is an aggravated form of false imprisonment. It is the stealing and carrying away of or secreting of a person.

Mass. Statutes, G.L. Chap. 265, Sect. 26, defines it as follows:

Whoever, without lawful authority, forcibly or secretly confines or imprisons another person within this Commonwealth against his will, or forcibly carries or sends such person out of this Commonwealth, or forcibly seizes and confines or inveigles or kidnaps another person, with intent either to cause him to be secretly confined or imprisoned in this Commonwealth against his will, or to cause him to be sent out of this Commonwealth against his will, or in any way held to service against his will, shall be punished by imprisonment in the state prison for not more than 10 years or by a fine of not more than $1000 and imprisonment in jail for not more than 2 years. Whoever commits any offence described in this section with intent to extort money or other valuable thing thereby, shall be punished by imprisonment in the state prison for life or any term of years.

The crime is not committed if the person consents, provided he or she is old enough, and of sufficient mental capacity to be deemed in law capable of consenting, and the consent is not obtained by fraud.

Parents sometimes resort to this practice, when they are separated, and one parent decoys or forcibly takes the child away from the other, who happens to have the custody of the child.

Another example is where persons steal the child of another and hold him for ransom.

This crime may be tried in the county where committed or where the person kidnapped is seized, taken, inveigled, or sold, etc. G.L. 265 - Sect. 27.

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SEDUCTION

Seduction is the obtaining of the consent of a chaste female, by persuasions, enticements, promises, etc., to have sexual intercourse with the man. If the girl is under 18 years and of previous chaste character, it is a felony in Massachusetts - otherwise a misdemeanor.

Seduction is distinguished from rape in that no force is used to accomplish the purpose. The woman is persuaded to consent in seduction, while the act is by force or against her will in rape. So consent is no defence in seduction.

If the defendant was a married man at the time of the alleged seduction and known as such to the complainant, there is no element of fraud or deceit present.

Usually where there has been a marriage of the parties concerned, this condones the offence.

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SODOMY

Sodomy consists in sexual intercourse with any brute animal, or in sexual intercourse, per anum, by a man with any man or woman.

Buggery is another name for sodomy.

Bestiality is carnal copulation by a man or a woman with a beast. It is a form of sodomy, although sodomy is not synonymous with bestiality.

Penetration of the mouth of the person was at common law sodomy, but by statute in this state it is called an "Unnatural Act".

Both parties are liable as principals if each is an adult and consents; but if either be a boy of tender years, the adult party alone is liable, and though the boy consents, the act is by force.

Penetration alone is sufficient.

This is a heinous offence, and when strictly and impartially proved, the offence well merits strict and impartial punishment; but it is, from its nature, so easily charged and the negative so difficult to be proved, that the accusation should be clearly made out. The evidence should be plain and satisfactory in proportion as the crime is detestable.

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LEWD AND LASCIVIOUS COHABITATION

Lewd and lascivious cohabitation is the act of a man and a woman living together as man and wife in the same house, who are not married to each other.

To constitute this offence, there must be more than a single act, or even occasional acts, of intercourse. But the crime is not committed by proof of cohabitation under an honest belief that he or she believed they were legally married.

All these acts alleged must have happened within one month of the date of making the complaint. It is, in its nature, a continuous offence, but you must confine your evidence to within one month of the date of the offence.

The gist of the offence lies in a man and woman living together and posing as man and wife. Not simply registering at a hotel for one night - but openly living together as man and wife.

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INCEST

Incest is unlawful sexual intercourse between persons so related by blood that a marriage between them would be unlawful.

This crime is committed whenever sexual intercourse is had by a man and a woman who are so nearly related that the law prohibits them from marrying - such as brother and sister, father and daughter, or uncle and niece.

In Massachusetts the statute provides that there must be consanguinity to such an extent that a marriage between them would be unlawful. So unlawful sexual intercourse between a man and his stepsister - where there is no blood relation - would not be this offence, and the same applies to sexual intercourse by a man with his stepdaughter, daughter-in-law, or sister-in-law, because there is no blood relationship.

To commit this offence, they must have knowledge of the existence of this blood relationship - i.e., a brother and sister were separated while they were very young and later met and afterwards married, not realizing that they were brother and sister. They were not guilty of this offence if they separated immediately.

Chapter Twelve

CRIMES AGAINST THE PROPERTY

Arson is a "common law" offence and is defined as the wilful and malicious burning of the dwelling house of another. Arson was distinctly a crime against the dwelling house and was distinct from the burning of a building, or burning with intent to defraud the insurer, etc., but by statute the crime of arson has been extended to all these other structures.

G.L. 266 - Sect. 1. Whoever wilfully or maliciously sets fire to, or burns, or causes to be burned, or whoever aids, counsels, or procures the burning of a dwelling house, or a building adjoining or adjacent to a dwelling house, or a building by the burning whereof a dwelling house is burned, whether such dwelling house or other building is the property of himself or another, and whether the same is occupied or unoccupied, shall be punished by imprisonment in the State Prison for not more than twenty years. The words "dwelling house", as used in this section, shall mean and include all buildings used as dwellings, such as apartment houses, tenement houses, hotels, boarding houses, dormitories, hospitals, institutions, sanatoriums, or other buildings where persons are domiciled.

G.L. 266 - Sect. 2. Whoever wilfully and maliciously sets fire to, burns, or causes to be burned, or whoever aids, counsels, or procures the burning of a meeting house, church, court house, town house, college, academy, jail, or other building which has been erected for public use, or a banking house, warehouse, store, manufactory, mill, barn, stable, shop, outhouse, or other building, or an office building, lumber yard, ship, vessel, street car, or railway car, or a bridge, lock, dam, flume, tank, or any building or structure or contents thereof, not included or described in the preceding section, whether occupied, unoccupied, or vacant, shall be punished by imprisonment in the State Prison for not more than ten years.

To constitute a burning, some part of the building, however small, must be burned or consumed. But a charring of any part of the building is enough.

All these burnings must be a wilful and malicious act, which excludes a burning arising from mere negligence or mischance. If the accused was in the commission of a felonious offence and accidently caused a fire to some building, some authorities say the doctrine of constructive intent applies. That is, in the commission of a felony, a man is presumed to intend the result of his unlawful acts; but other authorities claim, where specific intent is required, that a wilful and malicious intent - and no other intent - will suffice, and therefore, if a burglar, in the commission of a felony, accidentally tips over a lamp which causes the building to burn, he would not be guilty of arson. This seems to be the law in Massachusetts.

It seems, according to G.L. 266 - Sect. 10, that if the owner, or anyone else, burns a building with intent to defraud the insurer, he is guilty of arson, in addition to burning to defraud the insurer. 284 Mass. 412 - 417.

In Massachusetts, most every kind of burning done wilfully and maliciously comes under the heading of arson under the statutes.

PROOF under Sect. 1:

That there was a malicious and wilful burning.

That it was a dwelling house, as described in this section.

That some part of the structure was burned or charred by such fire.

PROOF under Sect. 2:

That there was a wilful and malicious burning.

That it was a building or other structure as described in Sect. 2.

That some part of the building or structure was burned or charred.

BURGLARY

Burglary is the breaking and entering in the nighttime of a dwelling house of another with intent to commit a felony therein.

In burglary, the offence must be committed against the dwelling house of another, which includes outhouses within the curtilage or common enclosure. To complete the crime, there must be an actual breaking, or a constructive breaking involved. i.e., where the entrance is gained by fraud or deception, or with the connivance of a servant or other inmate, or by descending or attempting to descend a chimney. There must be an entry by this breaking, and the breaking and entering must be done at night, though not necessarily the same night. There must be an intent to commit a felony at the time of such breaking and entering into the house, but the felony need not have been actually committed or attempted.

A store is not a subject of burglary unless part of it is used as a dwelling, as where the occupants use another part of the same building as their dwelling, or where the store is habitually slept in by servants.

The house must be actually occupied at the time of the breaking and entering; but if the house has never been occupied at all, or has been left without any intention of returning to it, this status does not exist.

Separate dwellings within the same building, as a flat in an apartment house or a room in a hotel, are subjects of burglary by other tenants or guests, or even by the proprietor of the hotel himself.

At common law a tent is not a subject of burglary.

There must be a breaking, actual or constructive. Merely to enter through a hole in the wall or roof or through an open window or door, even if left only slightly open and pushed farther open by the person entering, will not constitute an actual breaking; but where there is any removal of any part of the house designed to prevent entry, other than the moving of a partly open door or window, it is sufficient. So, the opening of a closet door or window or other similar fixture, the cutting out of the glass of a window or the netting of a screen, is a sufficient breaking. And also, the breaking of an inner door by one who has entered the house without breaking, or by servant lawfully within the house, but who has no authority to enter the particular room, is a breaking, but unless such breaking is followed by an entry into the particular room with intent to commit a felony therein, burglary is not committed.

The mere opening of a gate in the yard, or the opening of a chest, box, or trunk after gaining entrance, without a breaking, would not be sufficient breaking to make it burglary. Breaking out of a house or closet to escape is not "breaking", nor is it burglary.

There is a constructive breaking and entering where the entry is gained by a trick, such as where one conceals himself in a box or trunk; or under false pretences, such as impersonating a gas inspector; or by intimidation, such as frightening the inmates into opening the door through threats or violence; or collusion with a confederate, an inmate of the house; or by descending a chimney, even if only partial descent is made, and no room entered.

An entry must be made before the crime is complete, but the entry of any part of the body, even a finger, is sufficient, and the insertion into the house of an instrument, except to merely facilitate further entrance, is sufficient.

Where a person opened a window and inserted a fish pole with a hook attached, and secured the pants of the sleeping party, dragged them to the open window and pulled them outside - he would be guilty, even though at no time was any part of his body inside the house. Some old writers hold that if a man shoots a bullet from the outside of a house and the bullet enters, it is burglary, provided, of course, he intended to kill someone within. The doctrine being that if you set a force in motion, you follow it to the place it strikes, etc.

Both the breaking and the entering must be in the nighttime, which, at common law, was the period between sunset and sunrise, when there is not sufficient daylight to discern a man's face, and both must be done with the intent to commit a felony in the house. It is immaterial whether or not the felony be committed or even attempted, and where the felony is actually intended it is no defence that its commission was impossible. The felony intended may be any statutory or common law felony.

By statute, all breaking and entering a building, whether in the nighttime or daytime, are covered, and what has been said about the breaking and entering applies to them as above.

In statutory "breaking and entering", a building is a store, house, ship, vessel, railroad car, or even a shanty. In short, everything with four sides and a roof to it, outside of a box, trunk, bureau drawer, or things that take the place of these articles.

PROOF: BURGLARY.

(a) That the person broke and entered a dwelling house as alleged.

(b) That it was the dwelling of another.

(c) That the breaking and entering was done in the nighttime.

(d) That such breaking and entering was done with intent to commit a felony.

PROOF: BREAKING AND ENTERING A BUILDING.

(a) That the person broke and entered the building as alleged.

(b) That the breaking and entering was in the day or nighttime, as the case may be.

(c) That such breaking and entering was done with intent to commit a felony.

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LARCENY

Larceny is the felonious taking and carrying away of the personal property of another with intent to convert it to the taker's use without the consent of the owner.

Under Massachusetts statutes, it might be defined as: "the criminal taking, obtaining, or converting of personal property, with intent to defraud or deprive the owner permanently of the use of it, including all forms of criminal embezzlement, and obtaining property by criminal false pretenses. Larceny of property exceeding $100 is a felony - not exceeding $100 is a misdemeanor.

In all larcenies there must be a taking and carrying away of the goods.

The instant actual physical possession is obtained and the property moved the least distance, the taking and carrying away is complete. But the possession must be complete; thus, enticing a horse a short distance, or seizing property secured by a chain, or causing another to drop property by knocking it out of his hands is not a taking of such property.

The taking need not be by the hands of the thief, as where one having the required intent to steal, entices a horse into his own stable without touching him, or procures an insane person to take the goods, or procures a railroad company to deliver another's trunk by changing the check on it, he is guilty of larceny.

There must be a trespass in the taking. Hence, the one who has lawful right to possession of another's goods cannot steal. Where an article is borrowed in good faith or hired, the bailee does not commit larceny if he subsequently, during the bailment, decides to and does convert the article to his own use. But if he, at the time of borrowing or hiring, intends to convert it, such taking is by trespass, and it would be larceny. Where the article is obtained by fraud, although no intent to steal existed at the time, a subsequent forming and carrying out of such intent is larceny, as the taking and keeping possession is in this case a continuing trespass, i.e., where a horse was hired by one who really intended to go farther than he stated to the owner, but who did not intend to steal the horse, it was held that his later conversion of the animal was a larceny.

If the possession be honestly obtained, the person taking it is a bailee. If he in good faith becomes a bailee, such as where a common carrier accepts a bale of goods, or a person is entrusted with a trunk for safe keeping and he afterwards breaks bulk and appropriates part or all of the contents, he is guilty of larceny at common law, regardless of his intent when he received the goods.

The principle of the rules as to bailees who accept the possession of the property in good faith, or who intend at the time to steal it, applies to case of property delivered by mistake. As where a person accepts an article which is intended for another and is delivered to him by mistake - he is guilty of larceny if he knew of the mistake and had the required intent. If he accepted it in ignorance of the mistake and in good faith as intended for him, his subsequent appropriation to his own use is not a larceny, as there is no trespass in the taking. This same rule applies where a person is paid by mistake more money than he is entitled to.

The possession of the goods may be in one person, although the goods themselves be in the actual manual control of another, who is said to have custody of them. So, where the owner of a coin gives it to a friend to examine on the spot, he still retains the possession, and if the recipient goes away with the coin, intending to steal it, he is guilty of larceny. A guest at a hotel or a private house has the bare custody of articles such as those in his room or given to him for use at the table, and can commit larceny of such articles.

Where a servant receives goods or coins from his master to use, or care for, or employ for a specific purpose in his service, the master retains possession and the servant has custody only, and may commit larceny.

Also, where one gets candy from a slot machine by using counterfeit coin, or where a customer, after buying a cigar, takes the whole box of matches provided by the owner of the store for the use of customers - the act in each case is a trespass, and the offenders are guilty of larceny if the other elements of the offence are present.

Another application of the rule that consent must be as broad as the taking is made in cases where the owner's intent is to pass the property in the goods only when a condition is fulfilled. Thus, where goods are handed the purchaser on a cash sale, the title is not intended to pass until the price is paid - and if the person receiving them runs off with the goods without paying for them and with the required intent, it is larceny.

This rule applies in many similar cases. i.e. - It is larceny for anyone to whom money is handed to make change, run off with it, or keep it "animo furandi" and refuse to make or return the change, though his intention might be to keep part of it as a loan or in payment for goods bought. In these cases there is no intention of parting with the money without getting the change back. These are cases of conditional delivery, and the receivers have only bare custody, so it is immaterial whether the intent to steal existed at the time of receiving the money or was formed later.

The taking may be from anyone having possession of the property; hence, property may be stolen from one who himself has stolen it, and the owner of the goods may steal them from a bailee with special property in them.

One retains constructive possession of property although it is actually out of his control until someone else takes possession, except in the case of abandoned property. So, where a desk was sold and coins were afterwards found by the purchaser in a secret drawer and taken by him, he takes possession of it from the original owner. Where a person finds property, he has a right to take it and examine it. If the circumstances give him no clue to the rightful owner, he can rightfully appropriate it if he complies with the provisions of Chap. 134 - Sects. 1-2-3-4, etc., and he will not be guilty of larceny.

In larceny, as in other crimes, the evil intent and the act must co-exist; that is, as stated in the definition of larceny, the taking and the removing by trespass must be with the particular intent described.

But where the possession of property is obtained by trespass, the subsequent retention of the property without right is a continuing trespass, and however innocent the original intention of the trespasser, he commits larceny if, while wrongfully retaining possession, he has the intent to steal. For instance, where an animal belonging to one person becomes mingled with the herd of another and is driven off by mistake, without the knowledge of either person, there is a continuing trespass, and if, on discovering his mistake, the owner of the herd converts the animal to his own use, he is guilty of larceny.

The felonious intent in larceny is that entertained by a thief; i.e., a fraudulent intent to deprive the owner permanently of his property in the goods or of their value, or part of their value. Unless such a purpose exists with the taking and carrying away by trespass, there is no larceny.

Thus, larceny is not committed where the taking was without any intent at all as regards the property, as in case of property taken by mistake or accidentally; or where the intent was to take one's own property, as in the case of property taken under a bona fide claim of right, however unfounded; or where the intent was to take another's property temporarily from his possession, as in the case of property taken for temporary use, or in fun, or out of curiosity, or to keep for him, or to deprive him of the power of using it. Thus, if one takes a horse merely to allow him to escape with the stolen property, or takes property from a drunken friend in order to prevent him from losing it, or takes a cudgel out of the owner's hand in order to prevent a beating, there is no larceny.

Whether the required intent exists where property is taken to pawn or hold for a reward, depends upon the circumstances. Some cases of taking the property to pledge would come within the above rules as to temporary use, as where the intent is in good faith to redeem and return it. In the absence of such intent, it is larceny.

Where the intent is with the design of returning it to the owner, but in hope of obtaining a reward, it is not larceny. If the purpose is to keep the property until a reward is offered, it is larceny. Taking property with intent to sell it back to the owner or return it to him for some other consideration is, of course, more indicative of than inconsistent with the existence of the required intent. So stealing a railroad ticket is none the less stealing because it was intended to be returned to the railroad when made use of.

Once the goods are taken and removed with a felonious intent above described, the offence is complete and is none the less a larceny because the thief may have had in mind a disposition of the property without benefit or advantage to himself. Thus, an intent to give it to another or to destroy it out of revenge, or to prevent its use as evidence or otherwise against himself or another, does not prevent the felonious taking of another's property from being larceny.

In line with this principle, the servant who clandestinely took his master's oats to feed the master's horse was held to have committed larceny.

When a larceny has been committed, a prompt repentance by the thief, followed by a return of the property or payment for it, is no defence.

Under the common law, personal property only can be stolen. In Massachusetts, the stealing of any part of the realty is larceny. Anything of value may be stolen. A piece of paper can be stolen, though the value be less than the smallest coin. In Massachusetts, a written instrument is subject to larceny and its value is fixed upon the amount of money due thereon.

In Massachusetts embezzlement is larceny.

Embezzlement is a fraudulent appropriation of another's property by a person to whom it has been entrusted or in whose hands it has lawfully come.

It differs from larceny in that the original taking of the property was lawful or with the consent of the owner, while in larceny the felonious intent must have existed at the time of the taking.

The purpose of the statutes in making embezzlement larceny is to meet the case of the servant, clerk, bailee, or other person to whom the possession of the property is entrusted by or for the owner, and who fraudulently misappropriated it, to his own use or otherwise, the circumstances being such that the act was not larceny.

Obtaining goods by means of false pretenses is also made larceny in Massachusetts. False pretenses mean: designedly obtaining money or other goods, wares, or merchandise by false statements concerning some past or existing fact, with intent to defraud the person upon whom the deception was practiced. It must appear:

(1) That the pretense was false.

(2) That it was made with intent and purposes to defraud.

(3) That the fraud was actually accomplished by means of these false pretenses.

(4) That something of value was obtained by these false pretenses.

PROOF: LARCENY.

(a) The taking or converting of the property of the accused as alleged.

(b) The carrying away by the accused of such property.

(c) That the property was of the value alleged or of some value.

(d) The facts and circumstances of the case indicating that the taking and carrying away, or the conversion of such property was with a fraudulent intent to deprive the owner permanently of his property or interest in the goods or of their value or a part of their value.

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RECEIVING STOLEN GOODS

Whoever buys, receives, or aids in the concealing of stolen or embezzled property; or whoever with intent to defraud buys, receives, or aids in the concealment of property, it being obtained from a person by false pretenses or carrying on of business in the ordinary course of trade. Felony.

It is necessary for the receiver to know or have constructive knowledge that the goods were stolen at the time of receiving them.

There must be some act of receiving that involves a change of ownership. A man who receives the goods merely to hold them for the thief is not guilty, as he does not have actual ownership.

A wife is not guilty in receiving stolen goods from her husband, who has stolen them, but a husband may not receive stolen goods from his wife.

Since a wife cannot steal from her husband, one who receives stolen goods from her is not guilty of receiving stolen goods.

Under Chap. 266 - Sect. 61: Where the amount involved is less than $100 and the receiver makes restitution either of the goods or the value thereof, and he has never been convicted of a like offence, he shall not be punished by imprisonment in the State Prison. In this case it is a misdemeanor.

PROOF: (a) That the goods were stolen.
(b) That he received the goods as alleged.
(c) That he had actual or constructive knowledge that the goods were stolen when he received them.

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FORGERY

Forgery is the false and fraudulent making or material alteration of a written instrument purporting to be the act of some other person.

Some of the legal documents that are subjects of forgery are checks, indorsements, orders for delivery of money or goods, railroad tickets, and receipts.

A false writing includes a false instrument that is in part or entirely printed, engraved, written with a pencil, or made by photography or other device.

The writing must be false - must purport to be what it is not. Thus, signing another's name to a check with intent to defraud is forgery, as the instrument purports to be on its face what it is not. But where after the false signature of such person is added the word (by) and the signature of the person making the check, thus indicating his authority to sign, the offence is not forgery even if no such authority exists, as the check on its face is what it purports to be.

Forgery may be committed by signing one's own name to an instrument. As where a check payable to the order of a certain person comes to the hands of another of the same name, he commits forgery when, knowing the check to be another's, he indorses it with his own name, intending to defraud.

Forgery may also be committed by signing a fictitious name; as where a person signs a check payable to himself with a fictitious name; but when he passes the check signed by himself with a fictitious name, credit being given to him without regard to his name, forgery is not committed.

To constitute forgery the instrument must have apparent legal efficacy. The fraudulent making of an instrument affirmatively invalid on its face is not forgery. But this requirement does not ordinarily prevent the fraudulent making of a signature on a check, for instance, from being a forgery, even if there be no resemblance to the genuine signature and the name misspelled.

The false writing must be made with intent to defraud. A person who signs another's name to an instrument, believing that he has authority to do so, does not commit forgery.

It is immaterial, however, that anyone be actually defrauded or that no further step has been made toward carrying out the intent to defraud, than the making of the false writing.

The effect of forgery is to destroy the identity of the instrument. Example: Changing printed or engraved matter may be a forgery; but where the name of an artist is falsely signed to a painting, this is not forgery, because it is not the alteration of a writing.

PROOF: (a) That a certain instrument was made. The instrument itself should be produced, if available.

(b) That such instrument is a forgery.

(c) That the accused forged it.

(d) The facts and circumstances of the case indicating the intent of the accused thereby to defraud a certain person.

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PERJURY

Perjury is the wilful giving, under oath, in a judicial proceeding or a court of justice, of false testimony material to the issue or point of inquiry.

The false testimony must be wilfully and corruptly given; that is, with a deliberate intent to testify falsely.

It is not perjury to testify by mistake to what is believed to be true, however unfounded the belief may be; hence a witness may contradict under oath, testimony formerly given by him without committing perjury, since he may, on each occasion, believe his testimony to be true. On the other hand, a witness may commit perjury by testifying that he knows a thing to be true when in fact he knows nothing about it at all or he is not sure about it, and this is so whether the thing be true or false in fact. So also, a witness may commit perjury in testifying falsely as to his belief, remembrance, or impression, or as to his judgment or opinion on matters of fact. Thus, where a witness swears that he does not remember certain facts, when in fact he does, he commits perjury, if the other elements of the offence are present. So also, where a witness testified that, in his opinion, a certain person was drunk, when in fact he entertains the contrary opinion.

The oath must be required or authorized by law and must be administered by competent authority. Where there is a statute, it must conform to the statute. Substantial conformity is sufficient. However, there must be some form of an oath or affirmation in the presence of an officer having proper authority to administer an oath, in which the affiant takes upon himself all the obligations of an oath.

Thus, where a person merely delivers an affidavit, signed by him, to an officer authorized to administer the oath thereto, and without anything more being said or done, the officer signs the jurat, no oath has been administered.

Where a form of oath has been practised, a literal following of the statute is not essential. It is sufficient if the oath administered conforms in substance to the statutory form.

An oath includes an affirmation, where the latter is authorized in lieu of an oath.

It is no defence that the witness voluntarily appeared, or that he was incompetent as a witness, or that his testimony was given in response to questions that he could have declined to answer, even if he was forced to answer over his claim of privilege.

It is a defence, however, if the tribunal or magistrate had no jurisdiction of the cause in which the false testimony was given.

Thus, perjury may be committed by giving material false testimony with respect to the credibility of a material witness, or in an affidavit in support of a request for a continuance, as well as by giving testimony with respect to a fact from which legitimate inference may be drawn as to the existence or non-existence of a fact at issue. It is no defence that such testimony would have been excluded if objected to as incompetent, or that it was not believed, or that it did not affect the result in any way, or that subsequent proceedings rendered it immaterial.

Under Massachusetts statutes, Chap. 268, Sect. 1 A. Except in a judicial proceeding or in a proceeding in a course of justice, no written statement required by law shall be required to be verified by oath or affirmation before a magistrate if it contains or is verified by a written declaration that it is made under the penalties of perjury. Whoever signs and issues such written statement, containing or verified by such written declaration, shall be guilty of perjury and subject to the penalties thereof if the statement is wilfully false in a material matter.

PROOF: (a) That a certain judicial proceeding or course of justice was pending.

(b) That the accused was sworn in such proceeding.

(c) That the oath was administered to the accused in a matter where an oath or affirmation was required by law, as alleged.

(d) That such oath was administered by a person having authority to do so.

(e) That upon such oath the accused gave the testimony alleged.

(f) That such testimony was false and material to the issue or matter of inquiry.

(g) The facts and circumstances indicating that such false testimony was wilfully and corruptly given.

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CONSPIRACY

Conspiracy is a combination of two or more persons to do a criminal or unlawful act, or to do an act,not in itself criminal or unlawful, by unlawful means. It is a misdemeanor, but is beyond the jurisdiction of the lower courts.

When the agreement is complete, the crime is committed, whether or not the unlawful act is ever committed or carried out. But one must have an actual unlawful intent in agreeing to the act. He cannot be tricked into or be deceived into being a conspirator.

At common law the conspiracy merges into the felony if it is committed. But in Massachusetts there is some doubt as to this applying to all cases. See Mass. 12 Pick, 88; 108 Mass. 309. In misdemeanors, there is no merger and the conspiracy is treated as a separate offence.

A husband and wife cannot conspire together as they are considered one in the eyes of the law, but they can be guilty of conspiring with a third person.

A person who enters into a conspiracy is responsible for all the acts, words, or statements made before the object is accomplished, but if the object is accomplished, he is only responsible for the acts actually done.

There must be a plurality of conspirators; but one person may be indicted alone, for conspiring with others not in custody, or who are unknown to the prosecutor.

One may abandon a conspiracy and escape liability for the subsequent acts of his former confederates. He must, however, make known this abandonment of the conspiracy to the others concerned.

A father might conspire with others to get his child, which he has a right to possession of, and there would be no crime in this if they agreed to get the child by lawful means without a breach of the peace. But it would be an indictable conspiracy for the father, even though he had a right to the possession of the child, to conspire with others to get his child by force, or violent means constituting a breach of the peace.

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LIBEL

A malicious defamation, expressed either by writing or printing, or by signs, pictures, effigies, or the like, tending to blacken the memory of one who is dead, or the reputation of one who is alive, and to expose him to public ridicule, hatred, or contempt.

The truth of the charge is a defence in Massachusetts, if the publication was made for good motives or on a justifiable occasion.

Libel is a misdemeanor, punishable by fine or imprisonment with the prescribed limitations, which enable the court in fixing the penalty, upon conviction, to exercise sound discretion in view of the degree of the crime. It is beyond the jurisdiction of the lower courts. The crime, in libel, is that it tends towards a breach of the peace, and this is never more so than when a written defamation is sent to the person against whom it is directed, even though no other party ever saw the writing.

Do not mix libel with slander. Libel is a written or printed defamation and a crime. Slander is an oral defamation and simply a tort.

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DRUNKENNESS

Drunkenness is being intoxicated through the voluntary use of intoxicating liquor. Drunkenness is a crime anywhere.

Any intoxication which is sufficient to sensibly impair the rational and full exercise of the mental and physical faculties is drunkenness within the meaning of the law.

The amount of intoxicating liquor drunk makes no difference, as one man may drink one glass of intoxicating liquor and be in such a condition as to be drunk, while another might drink ten glasses of the same liquor before any sign of intoxication would appear.

The use of intoxicating liquor must be voluntary. Thus, where a person was forced to drink liquor by being put into fear of bodily harm, and thereby became intoxicated, or where one was induced to drink liquor through a joke or mistake, he is not guilty.

As there are several conditions that have the appearance of drunkenness, the officer must be either able to state that he saw the person drinking the liquor, or that his breath smelt strongly of liquor, and that he was acting in an irrational manner, to convince the courts of his guilt.

When a person drinks voluntarily and becomes intoxicated, and while in such condition does an act which would be a crime if he were sober, he nevertheless is guilty; the settled rule is that voluntary drunkenness is no excuse. Except that where a specific intent is essential to constitute the crime, the fact of intoxication may negative its existence.

If a person involuntarily, through the strategem or fraud of another, or the negligence of his physician, becomes so drunk that he does not know what he is doing, he is not criminally responsible for his acts.

Whoever is found in a state of intoxication in a public place, or is found in any place in a state of intoxication committing a breach of the peace or disturbing others by noise, may be arrested without a warrant by a sheriff, deputy sheriff, constable or police officer, and kept in a suitable place until he has recovered from his intoxication. G.L. 272 - 44.

PROOF: (a) That the defendant was found in a public place (or in any place if committing a breach of the peace or disturbing others by noise) intoxicated. That is, staggering, insensible, insulting people, etc.

(b) That his breath smelt strongly of liquor, or that he was seen drinking intoxicating liquor.

Chapter Thirteen

EVIDENCE AND COURT PROCEDURE

When a person is arrested he must be charged with a crime and he must be brought into court right away, if it is in session, or if it is not in session, at the next session. The charges against him must be made on oath by a complaint in the lower courts, an indictment by the Grand Jury, or in a proceeding before a court martial. A day is fixed for a hearing and in most cases the accused is let out on bail until the time of the trial. In the trial the accused may demand a trial by jury if it is before the lower courts, to decide whether or not he is guilty. The judge acts like an umpire to see that the facts are brought out fairly on both sides. If the accused is found guilty, the judge fixes the sentence. Any person who had his case tried in the lower court and lost may appeal to a higher state court (Superior Court). If he is not satisfied with this court's decision, he still may appeal to the Supreme Court of Massachusetts on the grounds that he did not get a fair trial. This court then goes over the evidence offered or the points in dispute and decides whether or not a fair trial has been conducted.

The oath taken by the members of the judiciary and jurors requires them to try to determine the case according to the evidence offered in open court. The lower court will also determine the matter before it solely on the evidence offered in the case, and no evidence would be admissible before a lower court that would not be admissible in the Superior Court. The evidence referred to, and according to which the court must decide the case, means all matters of fact which the court permits to be introduced, or of which it takes judicial notice with a view to proving or disproving the charges. Every item of this evidence must be introduced in open court, and it would be seriously irregular and improper for any court to consider any personal information that he possessed as to the merits of the case or the character of the accused.

Courts and justices employ methods to learn facts or past transactions which are similar to those adopted by any other person seeking such information. If I wish to find out if a certain act did or did not take place, I make my inquiries of those who were in a position to have knowledge of the occurrence itself, and by these methods I endeavor to gain a version of just what happened from all witnesses. From this investigation, I form some conclusion as to whether or not it actually happened. In conducting this investigation, I discover, however, that all witnesses do not give the same kind nor as valuable evidence as others. The testimony of some, who have better memories and are more observant, is of better quality than that of others. Some of them might be children or persons of unsound or weak mentality, who are without the mental capacity required to be able to observe things or to appreciate their value in relation to each other; some others, by reason of their well-known bad characters, would.not be believed by their fellow citizens; and still others could not give proper testimony because of being under the influence of intoxicating liquor or insane at the time the act was committed and so were incapable of observing what went on. So I reject some of the statements as untrustworthy or unreliable, to others I attach great weight and importance in accordance with their reliability and worthiness of belief, and so I try to come to a conclusion as to what the truth is in the happening or event which was the subject of my investigation.

In every criminal case the burden is on the prosecution to prove by relative evidence

(a) That there is such a crime as charged.
(b) That the offence charged was really committed.
(c) That the accused committed it.
(d) That he had the necessary criminal intent at the time.

These four acts, broadly, constitute the issues in every criminal case. Incidental issues will be formed by the necessity for proof of the essentials - that is, the gist of an offence as to character.

The courts are guided by the following essential considerations as to any evidence that may be tendered:

1. That it is relevant to the facts in issue.
2. That it is not within the rule rejecting hearsay evidence.
3. That if it is a confession or admission, it is legally admissible.
4. Where documents are used, the original should be obtained (except where a copy is admissible - such as certified copies of previous convictions) and the genuineness should be verified.
5. That any witness called is legally competent to give testimony.
6. That the examination of witnesses is fairly conducted.

Evidence, to be admissible, must not only be material, but relevant to the issue in the case. Evidence is not material when the facts that it aims to prove are not a part of the issues of the case. Evidence is not relevant when, though the fact it aims to prove is material, yet the evidence itself is too remote or far-fetched to have any probative value for that purpose.

EVIDENCE: All means by which any alleged matter of fact, the truth of which is submitted to investigation, is established or disproved. The legal means of proving any matter in question.

The police, as a rule, have to deal with two kinds of evidence. The first is direct or best evidence, which is the fact itself, or evidence based on personal knowledge or observation; second, circumstantial evidence, which tends to prove an alleged fact or facts having connection with the facts in issue.

The existence or non-existence of an alleged fact may be ascertained in three ways:

(a) By personal observation.
(b) By the evidence of persons having a personal knowledge of the character and habits of one under suspicion.
(c) By conclusions drawn from the fact in issue, and facts incidental thereto.

The second is evidence tending to prove intent or motive, which is the evil desire to commit crime and finds expression in the act committed. The quality of evidence counts more than the quantity. Suspicion is a personal opinion and not evidence, useful only so far as it leads investigation in the search for truth. While one rule as to quality of evidence necessary to discover truth prevails in all cases, and as all cases are not alike, the value of the evidence discovered depends upon its ability to successfully resist contradiction.

To get a clear understanding of the kind or quality of evidence necessary to discover the truth in a criminal investigation, it is required first to acquire a knowledge of the General Laws. Acts contrary thereto are violations. Second, a knowledge of what constitutes direct or best evidence. Third, the manner by which such evidence can be obtained. This is governed largely by the nature of the violation. Greater liberty of action is allowed in seeking evidence of a felony than in a misdemeanor; provided, however, the means adopted are not contrary to private and personal rights. The rule that force may be used in case of a felony does not apply in the case of a misdemeanor, except in the violation of the public peace.

The natural impulse implanted in the human heart is to tell the truth - a failure to do so is caused by temptation. Lying, wherever practiced, is contrary to natural impulse. Witnesses do not always tell the truth, being governed at times by a desire to protect or destroy. Habitual liars will, by reason of natural impulse, occasionally unconsciously speak the truth. These two classes of liars may come under the doctrine that habitual liars lie nearly all the time. Truth, being natural, requires no training to speak it, but untruth, being unnatural, requires training to make it imitate the truth - the thumb proof of guilt being expressed in the shifting of eyes, glib or halting speech and other unusual mannerisms. The difference between the original (truth) and its imitation (untruth) is easy to detect.

While the facts of a crime are the best evidence, and require no corroboration, the police are compelled to work on circumstantial evidence exclusively, which can only be made valuable by corroborative evidence. It is practically simple to discover circumstantial evidence, as crime, like everything else, is made up of circumstances - but it is more difficult to obtain corroborative evidence sufficient in quality to prove the authenticity of circumstantial evidence and from which the missing links in the chain of guilt are supplied. It is conceded by police experts that corroborative evidence is the most important evidence the police have to deal with.

ILLUSTRATION: Murder Case.

1. A testifies that he saw X stab Y with a knife - from the effects of which Y dies. This is direct evidence.

2. B is able to testify that he saw X talking with Y a short time before the killing. This is circumstantial evidence.

3. C, the police officer, identifies the knife as the one that was used in the killing. The knife is real evidence.

4. D testifies that he also saw X stab Y with a knife. This has already been testified to by witness A, so it is additional or to the same point. This is cumulative evidence.

5. E testifies to the knife belonging to X and identifies it as such. This strengthens or confirms other evidence

concerning the knife. This is corroborative evidence.

Generally speaking, all evidence may be classified as being direct, indirect (circumstantial), or hearsay.

DIRECT OR BEST EVIDENCE

Evidence that bears directly upon the "Factum probandum", i.e., the matter in question. For instance, if A testifies that he saw B stab A with a knife, this is direct evidence.

INDIRECT OR CIRCUMSTANTIAL EVIDENCE

Evidence of some other fact or facts from which the truth of the fact in question may be inferred, as a necessary or probable consequence. In the above case, the statement of the officer that he searched the defendant and found a bloody knife on his person would be indirect or circumstantial evidence.

HEARSAY EVIDENCE

Evidence of not what the witness knows himself, but of what he has heard from others is hearsay evidence. For example: A man is being tried for the larceny of certain clothes from a certain place. A is able to say that B told him that he saw the accused leave the house with a bundle under his arm. Such testimony is hearsay, and would not be admissible. A is being tried for stealing clothes. A policeman is able to testify that while on duty as a police officer, he saw the accused, with a bundle under his arm, go into a shop, that he, the police officer, entered the shop, and the accused ran away and he was unable to catch him. The policeman next day entered the shop and asked the proprietor what the accused was doing there, and the proprietor answered that he sold him some clothes and that he (the storekeeper) paid him $2.50 for them. The police officer could testify to what he saw the defendant do, but the conversation he had with the storekeeper was inadmissible because it was hearsay.

REAL EVIDENCE

That which is before the eyes of the jury - such as the knife or club with which the act was done.

CORROBORATIVE EVIDENCE

Evidence of a different character that strengthens or confirms facts to be proved is corroborative evidence. Example: Smith testifies that he saw Jones shoot a man with a certain gun. B testifies that he saw Jones with the gun, and C testifies that he saw Jones buy the gun. This is corroborative evidence.

CUMULATIVE EVIDENCE

Additional evidence of the same kind and to the same point is cumulative evidence. Example: John Smith testifies that he was at a certain place at a certain time. John Jones testifies that he saw him there at that time. Jones's testimony is cumulative.

PRIMA FACIE EVIDENCE

Evidence that raises such a degree of probability in favor of the existence of a particular fact that it stands as proved unless rebutted or disproved is prima face evidence. Example: Possession of stolen goods is prima facie evidence of stealing them if they are in the possession of the accused shortly after the stealing. Possession of a shotgun by an alien is prima facie evidence of his unlawful possession of same - the burden of proof is on him to show otherwise.

TESTIMONY

The statement made by a witness under oath or affirmation is testimony. The statement of a witness under oath - yet it need not be made necessarily to a judicial tribunal. Thus, a deposition may contain testimony, although never used in a cause pending. It is a species of evidence by means of witnesses. Testimony and evidence are synonymous, but evidence includes testimony as well as all other kinds of proof.

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PRESUMPTIONS

Presumptions, in their legal sense, are an inference or a rule of law founded on a certain fact or condition, and constitute a large part of the law of evidence. They are of two kinds - conclusive and ordinary or rebuttable presumptions.

A conclusive presumption is one against which the court will not allow any evidence to be introduced to contradict it. As where a boy is under seven years of age and is charged with a crime - it is conclusively presumed that he could not entertain the necessary criminal intent, and even though it could be shown that he had more than ordinary intelligence or that he executed the crime with greater ingenuity than an expert criminal, none of this evidence can be admitted.

An ordinary rebuttable presumption is one which the court will entertain until the contrary is shown by evidence. As where a person is arrested with stolen property in his possession, it is prima facie evidence that he stole the goods, but he can rebut this presumption by explaining that he found them or got them in some other legal way.

CONCLUSIVE PRESUMPTIONS (cannot be rebutted by any other evidence)

1. Every person is conclusively presumed to know the law.

2. A person under seven years of age cannot entertain a criminal intent.

3. In this state a female under sixteen cannot consent to sexual intercourse.

4. Every person intends the natural and probable consequence of his voluntary acts.

5. If a year and a day elapse after the last act of violence which results in a death, the law conclusively presumes that the death resulted from some other cause.

ORDINARY OR REBUTTABLE CONCLUSIONS (can be rebutted by other evidence to the contrary)

1. All persons charged with crime are presumed to be innocent.

2. A person who has not been heard from for seven years is presumed to be dead.

3. A woman who, in the presence of her husband, commits a crime, except treason, murder, and a few other crimes, did so under the coercion of her husband.

4. Possession of stolen property, within a reasonable time after the stealing of it, is prima facie evidence that the possessor stole it.

5. A person over seven and under fourteen years of age cannot entertain a criminal intent.

6. A person over fourteen is capable of entertaining a criminal intent.

7. Every person is sane until proven the contrary by a preponderance of evidence, in this state.

8. That a previously existing state of facts continue to exist; as where a man is seen alive and well on one day is presumed to be alive a day or even a week after; or a man in the leather business in May is presumed to be in the same business a month later.

The doctrine of judicial notice is that there are certain facts of which the court will not require evidence, because they are so well known or so easily ascertainable or so related to the official character of the court that it would be a waste of time and not good sense to do so; as for instance - an officer may show by a calendar that Friday was the 21st of May, and it will not be necessary to introduce evidence that the calendar is right; or he may produce the general laws without evidence that they are the laws of the state.

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After the commission of a crime and the apprehension of the criminal, the next important step is to properly present your case to the courts.

There are more cases lost in court through lack of proper preparation or knowledge of court procedure on the part of the complaining officer than for any other reason. In many cases hardened criminals have escaped punishment for their deeds through this neglect, so it stands to reason that every police officer should make this subject one of great importance, and all officers should have a good knowledge of the rules and laws of evidence.

All officers should know that the prisoner has certain rights guaranteed him by the United States and the Massachusetts Constitutions, so much so that he will often be so forcibly reminded of this fact that he will think that no one but the accused has any rights in a criminal case. The following are some of the rights guaranteed by law to a person accused of a crime:

1. He shall not be arrested or detained except for the commission of an act or omission forbidden by law.
2. Not subject to more restraint than is necessary to hold or confine him.
3. Entitled to be immediately arraigned if court is in session.
4. Can communicate with friends or counsel.
5. May request a continuance of the trial or examination or waive it.
6. May call witnesses in his behalf.
7. Is entitled to counsel.
8. Should have a public and speedy trial.
9. Is entitled to be confronted by his accusers and all witnesses against him.
10. The complaint must be read to him unless he waives it.
11. Be advised as to this right.
12. May examine the state witnesses either himself or by counsel.
13. He shall not be twice put in jeopardy for the same offence.
14. He is assumed to be innocent until pronounced guilty.
15. Cannot be compelled to testify against himself.
16. He is entitled to bail unless the crime be treason.
17. Failure to testify himself shall not be held against him.
18. If charged with an offence which is beyond the jurisdiction of the lower court, he may have an examination before being held for the Grand Jury.
19. He must be tried on an indictment, complaint, or a proceeding before a court martial.
20. If convicted by the lower court, he may appeal to the Superior Court for a trial by jury.
21. If the Superior Court finds him guilty, he can appeal to the Supreme Court for a decision as to whether or not he has had a fair trial.

22. If the verdict is against him in court, that it is unanimous.

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The hardest part of conducting a criminal case before the courts is to get witnesses and evidence that will be acceptable to the courts. This involves knowledge, work, and attention to business, before appearing in court.

In every case you must thoroughly understand the elements necessary to prove a person guilty of the crime charged. For instance, in burglary it is necessary to prove:

1. That there was a breaking and entering.
2. That it was the dwelling of another.
3. That the breaking and entering was in the nighttime.
4. That such breaking and entering was with a felonious intent.

To convict a person of this crime, you must be able by relevant evidence to prove every one of these elements, or you will not win the case. Suppose you are able to prove the first three conditions without any doubt, but you are not able to prove the last one. You will lose the case, as the crime has not been fully proven and all the elements necessary to burglary are not present.

When getting witnesses who are supposed to have seen the crime committed, or have some necessary knowledge concerning the case, be sure to question them as to this knowledge, and be satisfied they know what they are talking about before you bring them into court. Remember, you don't have to bring into court every person who claims a knowledge of the case. You should restrict yourself to those who have valuable knowledge and also WHO ARE WORTHY OF BELIEF.

When you make your complaint in court, remember you must swear to it. Read it over carefully and be sure that the defendant is properly named in it, that the crime is properly set out, and that any requirements of the law are carried out, before you sign it and swear to it.

The procedure of the trial is simple. The Commonwealth has the burden of proving, beyond reasonable doubt, that the defendant is guilty, so it may be said he is presumed to be innocent until found guilty. Your witnesses and yourself are sworn by the clerk, and you call to the stand the witness with whom you wish to open your case. Generally it is your chief complaining witness. You then follow him with witnesses who can corroborate his testimony. Try to have your witnesses follow in sequence, as if a story were being enacted before the court. Some lawyers like to open their cases with a strong witness, follow with the ordinary witnesses and finish with another strong witness.

When you take the stand yourself, remember that some judges and almost all juries are prejudiced against police officers. They seem to think that the officer is over-anxious to convict. This is, of course, an honest wish on the part of the officer who has seen the crime committed, but he must be careful not to let the court or jury think he is over-anxious to convict.

The following are some good rules to heed while testifying or in handling a case before the courts:

1. Be punctual in attendance.

2. Tell the truth. (Remember your oath.)

3. Tell your story in your own way, in plain language. Don't try to be a Harvard professor. Speak clearly and loudly.

4. If you make a mistake, correct it; don't try to stick to some slight mistake as to time or place.

5. Don't regard the opposing lawyer as your enemy. Don't let him get you excited and make you lose your temper. Learn to say "Yes, sir" and "No, sir", even to this lawyer, it is a bluff that works. But don't be a "Smart Aleck".

6. Remember, there is no hurry about giving testimony. You should have a mental picture of the whole crime scene, and testify so that the judge and jury will actually see the whole thing from your testimony and description of the scene. They are most anxious to hear what you have to say, and expect you to give more than ordinary evidence or information.

7. If you are testifying before a jury, confine your answers to the questions asked. Do not volunteer information. You are responsible only for your answers to the questions asked. Don't conceal or distort facts. If you know anything that is favorable to the defendant, even though it will weaken your case, and you are asked about it, don't be afraid to tell it.

8. Remember that you will be subjected to a more searching cross-examination than any other witness, and if you, the police officer, make any mistakes or contradictory statements, the jury will surely take an unfavorable view of your testimony. Lawyers will resort to all sorts of tricks to mix you up, such as having you repeat the story, begin at the middle, recite it backwards, etc.

9. Sometimes a lawyer will ask your witness if he has talked the matter over with the officer. The witness, in order to be loyal to the officer, will say, "No", which, of course, is not the case. Instruct your witness beforehand that he is expected to talk the case over with the officers and if he is asked this question to answer "Yes". If the lawyer then asks "What did you tell him?", let him answer, "Just what I am telling here", and this will stop all questions on this point.

10. Another trick played on police officers before a jury is when one of the officers is testifying to the ques-

tioning of the defendant in the station, the defending lawyer will ask, "Who was present at the time?". Usually the officer will name off several officers and neglect to state that the captain or sergeant was there. The opposing lawyer will immediately ask, "Was the captain or sergeant there?". The officer will answer, "Yes." The lawyer then says, "Well, why are they not here today?" This sometimes embarrasses the officer. He should answer, "I do not need them here, there are enough officers here to testify to this point. If you want the captain or sergeant, it is easy to get them here. Telephone the station." This will usually stop the lawyer and create a good impression on the jury.

Be sure your witnesses are properly summoned into court and see that they are there on time. Warn them not to have any conversation with the defendant or his lawyer, as the lawyer will surely use this conversation in court if it is favorable to the defendant. This applies also to police officers. The rules and regulations forbid them to have any conversation with the defendant except in the presence of the injured party. Yet police officers are continually being surprised by the lawyers, who introduce some conversation they had with the witness or officer in the corridors of the courthouse.

The first question to be asked each witness, after his name, address, and occupation, should be whether or not he knows the defendant, and if so, who he is. Then have him tell his story in his own way. Do not ask a lot of questions of your own witness. If he has forgotten something of importance, ask him about it. If his testimony is not clear, or you believe he has made a mistake, ask him to repeat that part again. On cross-examination, don't be ready to jump up and ask the defendant's witness a lot of questions when you know his answers will be favorable to the defendant and strengthen his case. Be sure you can refute his testimony or make him admit he is wrong before asking questions. When a police officer asks a question and the witness sticks to his story, it has more ill effect on the case than if the defendant's lawyer asked the same question and your witness stuck to his story.

In direct examination of your witnesses, ask direct questions, such as "Where were you last night about eight o'clock?" "Did you see anyone there?" "Whom did you see there?" "Did you see the defendant do anything?" "What did you see him do?" "Did you have any conversation with the defendant at that time?" "What did he say?" "What did you say?"

Police officers are often surprised when the court or the lawyer refuses to let them testify to certain conditions when they start in this manner: "About 10:00 P.M. last night a woman came to the station and said, "I heard - I was told, etc." He might say, "As a result of a conversation with the complainant, I went to the defendant's home." The first questions are hearsay - the last one is an account of what the officer did.

Any person of sufficient understanding, although a party to the crime, may testify in any proceeding, civil or criminal, in court or before a person who has authority to receive evidence, except as follows:

First - except in a prosecution begun under Sections one to ten of Chapter 273, neither husband nor wife shall testify as to private conversations with the other.

Second - except as otherwise provided in Section 7 of Chapter 273, neither husband nor wife shall be compelled to testify in the trial of an indictment, complaint, or other criminal proceeding against the other.

Third - the defendant in the trial of an indictment, complaint, or other criminal proceeding shall at his own request, but not otherwise, be allowed to testify; but his neglect or refusal to testify shall not create any presumption against him. 233 - 20.

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The conviction of a witness of a crime may be shown to affect his credibility as follows:

FIRST - The record of his conviction of a misdemeanor shall not be shown for such purpose after five years from the date on which sentence on said conviction was imposed, unless he has subsequently been convicted of a crime within five years of the time of his testifying.

SECOND - The record of his conviction of a felony upon which a fine only was imposed, or a sentence to a reformatory prison, jail, or house of correction shall not be shown for such purpose after ten years from the date on which sentence on said conviction was imposed, unless he has subsequently been convicted of a crime within ten years of the time of his testifying.

THIRD - The record of his conviction of a felony upon which a state prison sentence was imposed shall not be shown for such purpose after ten years from the date of expiration of the minimum term of imprisonment imposed by the court, unless he has subsequently been convicted of a crime within ten years of the time of his testifying. 233 - 21.

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In presenting records of previous convictions to the court, be sure to have certified copies of same. It is also necessary to have the defendant or witness identified either by yourself or some other person as the person who was sentenced as stated in the certified copies. This must be the officer in the case or some other person who was present when he was sentenced by the court.

This is very important. Yet we continually hear of cases where officers failed in affecting the credibility of the witness as a witness or to get the culprit his just deserts as an old offender simply because he did not have these records or because he had no one to identify the witness as the person named in the copies, if he had these copies. Get your certified copies from the clerk of the court wherein the culprit was convicted and sentenced.

Generally speaking, the private conversations between husband and wife are inadmissible in evidence, except where the wife or husband is the injured party. This does not apply to cases of desertion, non-support, and abandonment. This disqualification only applies to husband and wife, but if the conversation is heard by a third party, he may testify to what he heard.

Officers should remember that in a criminal case the defendant's reputation cannot be attacked unless he himself offers evidence of his good reputation. Sometimes the defendant, especially in a larceny case, will have witnesses to testify to his good reputation for honesty and integrity in the neighborhood in which he resides. In this case he has offered testimony as to his good reputation, and it is up to the government to rebut it if possible.

Oftentimes the defendant will testify in a criminal case and then he will call witnesses to testify that his reputation in the community in which he lives, for veracity and truth, is good. It is easy for him to get friends who will so testify.

However, when the defendant offers evidence as to his reputation, it must be for the particular trait then in issue. For instance, in an assault and battery case, his reputation for keeping the peace and good order, etc. - in sexual offences, his reputation for chastity - in larceny cases, his reputation for honesty, etc.

In cases of this kind, where the officer gets knowledge that such a defence is going to be used, he should be prepared to rebut this evidence if he knows what is being testified to is not the truth. Generally this evidence is easily obtainable, but often officers do not think it of enough importance to bother with and lose their cases in court - when such evidence is offered and he has nothing with which to rebut it.

If any witness other than the defendant takes the stand, his reputation for truth and veracity can be shown under any circumstances. In many cases witnesses are notoriously untruthful and of bad repute. The police officer himself may be able to testify to the witness's bad reputation from his own knowledge of the reputation of the witness and from what others have told him about the witness not being worthy of belief. But this reputation must be in the community where the witness resides, no matter what his reputation may be in any other place.

In Massachusetts, anyone can be a witness in a criminal case provided he or she is able to distinguish between right and wrong. Often the police will pass up a child witness because they are afraid they do not make good witnesses. Probably it is just as well not to use children of tender years in unimportant cases, but in an important case, especially where the offence was committed against the child, he often becomes the most important witness, and as such, the officer should have no compunction about using him.

If an officer has an occasion to use the testimony of a child of tender years, he should question the child carefully and satisfy himself that the child is intelligent enough to know what he or she is talking about and is telling the truth. He should then question the child as to his or her belief in God and punishment for sins. If the child has had enough training to believe in God and punishment for sins, and this fact is established to the satisfaction of the court, such child will be allowed to testify.

On the other hand, if the child seems to tell a straight story and the officer believes she or he is telling the truth, but the child has not had enough training to believe in God and punishment for sins, it is up to the police officer to see that he or she has had instruction on these points before allowing him or her to testify. This can be done by having the child receive such instruction from a priest, minister, or rabbi - according to his religious faith. Make arrangements with the child's parents to have the child instructed in this manner.

CONFESSION: A voluntary statement made by a person charged with a crime, communicated to another person, wherein he acknowledges himself guilty of the crime charged.

ADMISSION: A statement or acknowledgement made by a person either orally, in writing, or by conduct, against his interests, tending to show consciousness of guilt, or from which guilt may be inferred.

A confession admits the whole charge. An admission is not so direct - it deals with facts from which guilt may be inferred. Confessions must be voluntary - that is, without fear, inducements, promises, rewards, etc. Admissions may be voluntary or involuntary, provided they are not taken under duress.

Before the admission of a confession, the defendant has the right to demand a hearing as to its admissibility.

This is not so on admissions.

In talking with the defendant, remember that his statements and actions are of extreme importance. Here is where you can win or lose your case. Know what you are after, but do not let him get any idea just how much knowledge you have of the case unless you have a perfect case on him. When you arrest a party, remember, with most persons, if he is the right party, three-fourths of your case is won right here. Why? He is satisfied then and there that you must have some information on the case or you would not have arrested him. The question is, how much? Try to impress him with the idea that you know all about it. Then try a little conversation with him, taking note of everything he has to say. Check up on what he said - find out if he is lying and confront him with it. Keep him in the dark as to what you know until you have all points covered, then confront him with it in such a way as to convince him of the futility of denying his guilt any longer. Of course, with hardened criminals, you may not have much success by these methods, but they are well worth trying.

Statements tending to mislead, deliberate lying, conduct when accused before arrest - such as saying nothing, blushing, or hanging the head in shame, running away, trying to get witnesses not to testify, equivocal statements, etc. - are all admissions and can be testified to in court.

In regard to conversations with the defendant, you must be careful of your conduct in these matters or they will not be admissible in evidence. You can testify to any conversation you had with the defendant before he was arrested, in regard to the matter in question. For instance: A tells you that B has stolen his watch. You approach B and tell him that A says he stole his, A's, watch - if B makes no answer or any answer to the accusation, it may be admitted in evidence. If, on the other hand, you arrest B on what A has told you and you start to ask him questions, or have A accuse him, and he, B, makes no reply to the accusation or questions, this would not be admissible in evidence, because a prisoner is not required to make answer to any questions after arrest.

Generally speaking, you can testify to any conversation had in the presence of the defendant if he makes answer to it after he has been arrested. But it is good policy and many judges require it, to notify the defendant that he is under arrest, that you are a police officer, that you are about to question him, and that he does not have to answer your questions if he does not want to, but if he does answer such questions, they will be used in evidence against him.

A confession is admissible in evidence only where the defendant makes it not under any condition of coercion, promises of reward or favor, and under such conditions that you will be willing to testify to in court to the judge or the jury. You must satisfy the court that it was voluntary and have witnesses to that effect.

Often you will present what you believe to be a perfect case against the defendant, and yet the verdict will be "Not Guilty". Do not take this to heart. Your duty is to arrest the criminal, present your evidence the best you know how, telling the truth at all times, and with this your duty ceases. If the court sees fit to find him "Not Guilty", that's the affair of the court, and you need not necessarily think you have not presented your case properly. The judge reaches his decision by what you and the defendant presented in court as evidence. Some of your witnesses may have failed to impress the court or jury, while, on the other hand, the witnesses of the defendant may have favorably impressed them by their testimony, and they were believed. Above all, do not criticize the courts or juries while in their presence, and it is better sportsmanship not to criticize them at all. Remember, they are not infallible.

In any criminal case, in order to convict, the prosecution must prove beyond reasonable doubt that the accused has committed the crime charged. He is not required, under our laws, to establish his innocence, and if, after hearing the evidence, the judge or jury has a reasonable doubt as to guilt, they must acquit him.

A judge or jury is not required to believe that the defendant is not guilty before they can acquit him. The law presumes he is not guilty, and it is the duty of the jury to acquit him, although they may not believe him innocent, unless they find from the evidence - beyond a reasonable doubt - that he is guilty. Remember a verdict of "Not Guilty" is not a verdict of innocence.

Because of this law that places the burden of proof upon the prosecution to prove beyond all reasonable doubt, to the satisfaction of the judge or entire jury - the lawyer for the defence is constantly seeking to find something in the evidence upon which to raise an argument that will instill "reasonable doubt" in the minds of the jury.

One of the principal and most common means of raising this "doubt" is a faulty identification by the witnesses of either the accused or of the implements or tools used in the commission of the crime.

Here is another case of showing that very necessary qualification for a good police officer, "observation" - and an officer's testimony to the identification of persons or evidentiary articles must be so clear and specific or definite and convincing that it will set aside all doubt in relation to his testimony as to this particular person or article.

The only way to perfect himself in this very necessary qualification is by observation and practice.

In a recent case where the defendant was accused of "larceny", the officer found himself in a very embarrassing position when two brothers, who looked somewhat alike, were lined up before him, and he was asked to pick the one he saw take the goods - and he picked the wrong one. The case was then lost.

There are numerous cases where similar revolvers and similar knives were shown to the officer and he was not able to identify the article in question - thereby weakening his case before the jury. It is a simple case of not being observant and not placing identifying marks upon such articles.

The officer must be ever ready to sustain his identification of both individuals and articles in evidence. In a shooting case a few years ago a revolver was offered in evidence by the prosecution. The defence lawyer, seeking an opportunity for an opening to create reasonable doubt, questioned the officer minutely about the revolver and cartridges and finally asked the officer to load the gun in exactly the same manner in which he found it. The officer unhesitantly loaded the revolver and the lawyer challenged him to show the jury how he was sure he had loaded each cartridge in the particular chamber he found it in. When the officer showed each cartridge and empty shell with a mark on it that corresponded with a similar mark on the chamber, and by which he had loaded the gun, he settled all questioning and made a very strong impression on the jury.

There has been a lot of imagination used as to who makes the best witness in court, and, surprising as it may seem, those who are in a position to know say that it is not the expert, nor the most highly educated, nor the highbrow witness who makes the best witness in court. The medical examiner, the ballistic expert, the auditor, and the psychiatrists are all mere machines in testifying and are accepted as a matter of course.

The real witnesses - the ones who are most believed - are the simple, illiterate, and uninformed type. They are usually too ignorant to know how to lie. This witness tells the truth naturally. He is naive, innocent, and without affectation or guile. He may be humiliated, ridiculed, etc., but he cannot be shaken. In their broken English or bad grammar, they are worth a dozen experts for whatever side they testify, and the impression they leave of honesty and disinterest is too much to be overcome.

If you are going to be a success in presenting your cases in court, you must always be on the alert to have this kind of witness if possible. Remember, you are going up against a trained and experienced legal expert in the counsel for the defence, and he is constantly on the lookout for "breaks". Breaks that will create a "reasonable doubt", if not in the minds of the whole jury, at least in the mind of one of them, which is all he can expect - and this will cause an acquittal or at least a disagreement, which, in many cases, is the equivalent of an acquittal.

Chapter Fourteen

CRIME INVESTIGATIONS

A considerable part of your time as a police officer will be spent in the investigation of crime. As the whole object of your investigations is the solution of such crime, it is essential that you thoroughly understand the elements which are necessary to constitute the various offences, how to observe conditions yourself, and how to gain the information necessary from those who have witnessed the matter in question.

When you are assigned to a case, or it happens on your route, investigate it and try to decide whether or not it comes within the province of the police. If so, it is necessary that you go into the matter thoroughly, make arrests if needed, get witnesses, and secure the evidence.

Where a crime has been committed, two very important factors enter into the problem of bringing the criminal to justice - namely, identification and capture. In making your investigation, you should always have these two factors in mind.

The identification of the criminal is generally accomplished by his being caught in the act, or recognized by witnesses or his victims, through disposing of stolen goods, by finger prints, handwriting, modus operandi, foot tracks, personal property, photographs, confession, self-betrayal, or arrest.

The capture of a criminal is usually more complicated, but if the identification is complete, the chances of capture are greatly augmented. Usually the capture is brought about by his being caught in the act of committing the crime, near the crime scene, running away from the scene of the crime, hiding, disposing of stolen goods, being turned up by a false friend, in a round-up of suspicious persons, while committing another crime, through betrayal by a pal or a woman's jealousy, through confession of another, or through an accomplice turning state's evidence, and sometimes in a foreign country.

If you are sent to or arrive at a crime scene shortly after the commission of the crime, you will find everyone quite excited and generally those who have witnessed the affair will be quite talkative and willing to relate what they know. Be sure to get their stories right away, as they will not be so willing to talk afterwards - more especially so if they find that the person who committed the crime is a friend or a relative and that they will be summoned into court later.

Probably one of the best sources of information is from business men on your route, but unfortunately they seldom wish to be known as witnesses of the affair. It is well to question them privately, and if they are assured that they will not be brought into the case as witnesses, they will often give you valuable information.

It is very essential that the officer get witnesses who can corroborate each other. Where there are a number of witnesses, pick out the most intelligent and let him tell the story in the presence of the others, and usually they will all agree with him.

Every officer, upon arrival at the crime scene, should immediately get a mental picture of the whole affair. He should be especially observant of the position of the body, vehicles, furniture, doorways, windows, steps, persons, etc. He should be able, from his description of the scene, to bring the whole affair to the eyes of the jury or judge. In talking to witnesses, be careful to call their attention to the position of the various objects, so that they can corroborate your testimony in court.

A good investigator is a good observer. The average person has two good eyes and a power to see things, but it is surprising how little some persons actually see, and this applies to police officers.

In homicide cases, the police are often criticized for their lack of knowledge in investigating the facts of the case. A homicide case is the most important occasion in which a policeman can perform his three duties towards evidence - i.e., collect, preserve, and present it properly to the court.

When a homicide occurs in a private house, the patrolman who enters first should note in his pocket manual the position of the body, evidence of a struggle, conditions of doors, windows, lights, furniture, etc. All unauthorized persons should be kept out of the premises. But those whose testimony would be of value in clearing up the case should be detained for the time being, until the arrival of an official of the homicide squad, who would want to question them. He should also arrange for photographs to be taken.

He should then immediately have the body identified, notify the station of the death, and, if the perpetrator has escaped, be able to give a good description of him, with whatever other facts that would be of value in apprehending the criminal. If the officer arrives in time to arrest the perpetrator, he should have someone accuse him of the crime, and get his answer to the accusation.

The investigating officer should then:

1. Establish the crime.
2. Look for a motive.
3. If he has not already done so, detect and arrest the criminal.

The crime can be established by the marks, or condition of the body, and the surroundings.

It is of extreme importance to fix a motive for the crime, because it is a moral feature that is real and essential. The motive can be determined by looking up the history of the victim, his friends, enemies, and relatives. The foundation of all motives are generally found in the weaknesses and wickedness of human nature - such as greed and gain; sex jealousy; revenge or anger; fear of disgrace or discharge from employment; moral depravity or weakness; and crank delusions.

Those morally depraved are capable of committing any of the sadistic crimes, even murder, to gratify their beastly, perverted, and unnatural tastes.

The first step in conducting a criminal investigation is to establish a theory. That is an "idea" how the crime was committed. Many policemen are apt to form a theory as to how a crime was committed and nothing can get them to change from their original theory. This is a handicap. You may form or come to your own conclusions as to who committed the crime, but when something develops that shows a more logical reason or suspicion as to who committed the crime, do not be loathe to accept it when it is more in keeping with the case.

Generally speaking, there are two methods of reasoning in criminal cases - the deductive and inductive. Policemen use the deductive method in most cases. In a murder case we see the effect (the dead body) and try to go back to the cause - this is deductive reasoning. In inductive reasoning, you start at the cause and reach the effect. In other words, every cause has an effect and every effect has a cause. So we see that in the detection of crime we usually must be deductive reasoners, the crime being the effect and the perpetrator the cause.

In investigating a crime, you will always find physical and psychic factors present. If the officer is alive, these factors will indicate clues according to his knowledge and acumen. The weapons, tools, etc., that indicate the person who committed the crime are physical factors in the case. Motive, knowledge, skill, ability, etc., are included in the psychic elements of the case.

A clue to the identity of the perpetrator of a crime may be had by asking yourself "Who benefits by the crime?" A second clue may be found by asking yourself "Who had sufficient knowledge of conditions and surroundings to be able to commit this crime?"

The radius of action is another feature that calls for attention. This means that only persons within a certain distance of the crime scene could have committed it, and all those outside of this radius can be eliminated.

Many detectives often place their suspicions, especially in acquisitive crimes, on the guilty party by simply asking themselves or making inquiries as to "who is out" - that is, who has been released from jail or prison recently. Experience has shown that old offenders do not remain reformed very long and are soon back at their old tricks.

Criminals can be detected by the clues and evidence they leave at the crime scene. The knife, the revolver, tools, instruments, fingerprints, footprints, personal clothing or belongings, their manner of gaining entrance, their manner of escape, the methods used in committing the crime, and various other minute details all go towards characterizing and identifying the criminal so that he can be apprehended and convicted by officers using common sense and modern methods.

Where a crime has been committed, there are always persons who can be of great assistance in solving the crime and arresting the perpetrator. The most important of these are as follows:

1. A person who saw the crime committed or attempted.
2. A person who, by reason of friendship or association with the perpetrator, would be in a position to suspect him.
3. A person who furnished the weapon or tool used.
4. A person who bought or was solicited to buy the proceeds of the crime.
5. A person who saw the perpetrator in the vicinity of the crime, or on his way to the crime scene.
6. A person who would be cognizant of a well-defined motive which would cause suspicion to be attracted toward the culprit.

If these persons are located and approached with tact, they may be induced to tell all they know, especially so when they are promised that they will not be used as witnesses against the accused.

At the scene of a homicide, the work of the police and the extent of their inquiries will depend upon whether -

1. The murderer has escaped without being known.
2. Is known and has escaped.
3. Has been arrested and is known.

The last of the three, of course, is the easiest for the officer, but there are details that should not be overlooked. The officer should summon medical aid if needed. He should note the condition of the murderer if arrested; record any statement he may make; examine his clothing and person for evidence, and line him up with others for identification by witnesses.

He should secure the pistol, revolver, knife, or other instrument that caused the death, noting the exact place where found, its condition, and, if a revolver or pistol, its number, make, caliber, number of empty shells, number of loaded cartridges, and search for bullets that are not in the body. If it is an automatic, remember that empty shells are ejected to the right and rear of the shooter. Do not mark bullets or shells. Let the ballistician do this.

Another important thing to remember is to leave the revolver in exactly the same condition as found (until the arrival of the ballistic expert). If it is dirty or rusty, leave it so. If it is a knife, leave the blood or other stains on it, and this applies to any weapon that was used. Be careful to keep all evidence of this kind in your possession until you have either turned it over to the ballistic expert or marked and placed it in a safe place at the station house. Do not let everyone handle or inspect it.

WHERE THE PERPETRATOR IS KNOWN AND HAS ESCAPED

His name, address, full description, trade or employment and employer, relatives and their addresses, friends or associates he might visit, places he might go to, direction and means of travel when leaving the crime scene, must be ascertained and telephoned immediately to the station and relayed to headquarters.

If it is thought that he is in a certain building or vicinity, measures should be taken with a superior officer in charge to cover all exits of the building suspected, to cover all streets, alleys, and areaways in the suspected vicinity and a thorough search of all buildings and suspected places accomplished.

A general alarm should be sent out by radio, telephone and teletype. All points of entry or egress, such as railroads, tram or bus lines, ferries, steamboat lines, bridges, and automobile routes to other large cities should be covered.

Circulars including his picture and best description obtainable should be sent out to local cities and towns and to all large cities in the United States or foreign countries if thought that he has escaped from this country. Newspaper publicity with his picture and all other details, including broadcasts by radio broadcasters, are of extreme value.

Letters to his wife, sweetheart, or friends should be watched for to locate his whereabouts. If necessary, a dictaphone could be installed or wires in the homes or business places of those who might be in contact with him could be tapped and valuable information obtained in this manner.

All clues gained by these methods should be thoroughly investigated and run to accomplish the arrest and conviction of the accused.

IF THE FELON ESCAPES AND IS NOT KNOWN

The detection and arrest of the guilty party depends upon the knowledge, cleverness, ingenuity and detective ability of the investigating officers. Everything that has been said in regard to detecting and arresting criminals applies in these cases.

Every clue and every source of information must be worked upon and all sifted down, and what is of importance must be eliminated from the chaff and acted upon. Fingerprints, photographs, footprints, modus operandi, clothing and wearing apparel, descriptions, weapons, cartridges, shells, burglar tools, letters or writings, anything that would indicate peculiar habits, etc., are all very important clues that must be thoroughly investigated and run down.

All subsequent action in cases of this kind to bring about the arrest and conviction of the accused must be based upon concrete evidence obtained through facts brought out by intelligent investigation which will result in the solution of the crime.

CUTS, WOUNDS, BRUISES ON DEAD BODIES

Bruises do not form on bodies after death, nor do cuts or wounds bleed after death.

Although bruises will form and cuts bleed while dying, cuts will not bleed after the heart stops beating or shortly after the heart stops pumping blood through the blood streams of the body, such as veins and arteries.

So, in cases of murder, suspicious deaths, where cuts and wounds are inflicted, make sure of the time of death, and then look for blood around the body. If in a house, look through all the rooms and closets, as this method will tell you whether or not the person was killed outside in the street - if, for example, you find no blood in the room around the body or in any part of the premises.

If the person was shot or died in the room from stab wounds, you will unquestionably find blood around or on the dead person's body, clothes, or floor, and possibly on the walls or furniture. If, in the foregoing, you do not find any blood, it will signify one of two things - either the person was killed in some other place and brought to the place of finding, or else the person who committed the murder washed the blood away to eliminate the evidence and possibility of apprehension.

Remember that a good investigator learns to keep his mouth shut and his ears open. At the vicinity of the crime, be a good listener. Don't let everyone know all you have learned about the case. Keep all persons away from the body except someone to identify it. If it is in a room, keep all persons outside of the room. Be careful not to allow any person or other officer to touch the furniture or weapons that might have fingerprints on them.

If the injured person is brought to the hospital in a dying condition, or immediate necessity requires it, be sure to get a dying statement that will be admissible in evidence. To do this, the person who is dying should be informed of his condition. He must be in a state of mind that he actually believes HE IS ABOUT TO DIE AND HE HAS NO HOPE OF RECOVERY. The following is an example of the questions and answers that will cite a case of this kind.

First, tell the patient who you are, show him your badge if necessary, introduce all persons present, and state your business there. Take all questions and answers down in writing. Then carry on as follows:

"What is your name?" Answer

"Where do you live?" Answer

"Do you believe you are about to die from the effects of the injury you have received?" Answer

"Have you any hope of recovery from your injury?" Answer

"Are you willing to make a true statement of how and in what manner you received the injury from which you are now suffering?" Answer

Let him tell his story in his own way. If you ask questions, be sure they are taken down in writing and the answers to them. After he has completed his statement and you have completed writing it, let him read it, or read it to him, if he is unable to read. Make sure he understands the contents of the statement. If possible, have him sign it, if he is unable to sign, have him make a cross, or indicate by the squeeze of the hand.

If you have arrested the perpetrator, be sure to bring him before the injured person to be identified. Everything that is said in the presence of the defendant is admissible in evidence, provided he makes an answer to it, unless the answer is a complete denial. Have the injured person accuse the assailant of the injury and try to get him to make an answer to the accusation. Ask the culprit if he has heard what the dying man said about him, and get his answer. This is very important.

In all cases, whether felonious or not, always have the accused meet his accuser and have the injured person accuse the guilty party and get his answer to the accusation, having witnesses who can testify to what was asked and the answers.

In all investigations, good judgment must be used in seeking and following up clues. Information of all kinds, even from a person not of a reliable character, must be investigated. Sometimes information and clues come from the most unexpected quarters. You may form a theory that looks very good from the start, and quickly discard it for something better that develops as the investigation goes on. Do not be too easily led by appearances. Each claim must be tested and all physical facts verified. Stories and statements made by both the complainant and the accused must be thoroughly investigated, checked upon, before any final conclusion can be made as to the guilt or innocence of the suspected party.

When you think you have a complete case, and when you have concrete evidence covering every point necessary to obtain a conviction, just remember that you must be prepared to meet any kind of defence the accused may offer. Keep your ears to the ground to find out what he intends to offer in defence. An alibi, for instance. Can you prove he was present at the time stated? Are you prepared to refute any kind of a defence he may offer? If so, you are now ready for court. Go ahead and put your case into court.

Chapter Fifteen

REPORT WRITING

After every investigation of police importance you will be required to make a written report. Often this is your introduction to your commanding officer, as he knows nothing of your qualifications, and if you have the faculty of making a good report, you may be sure that you will be remembered for future service by your captain. There is nothing about making out a police report that requires exceptional ability, yet certain officers never acquire the knack of making a good report. There are certain rules and facts necessary in every report that make it complete and cover all the information wanted.

As matters of vital importance to the public and the city depend upon reports made by members of the police force, it is a duty of fundamental importance that they be properly made - allowing no material fact to escape attention. They should be brief and to the point, leaving out personal opinions and making no attempt to classify violations under

Chapters and Sections of the General Laws. Particular care should be given to obtaining every fact in cases where the City of Boston might be liable in a suit of law. Facts should be material, or based on suspicion, time of occurrence, localities and their reputation; names and addresses of complainants and witnesses should appear; full descriptions of unknown persons involved should be given; approximate value and disposition of property should be made known, and the giving and taking of receipts.

The basis of reports is "evidence", or facts coming within the view or knowledge of members of the force, and great care should be exercised in reporting only evidence that can be used in future examinations, and not based on hearsay or imagination. Personal opinion should be left out of reports. Evidence is the best means whereby a fact or statement can be proved or disproved.

In the matter of making reports in the police department, reports are so different in character that no one rule of uniformity could be adopted upon which all reports can be based. A custom which has been in existence in the department from time immemorial has established three guides for the beginning, body, and ending of reports generally.

The preamble of a report from a subordinate to a superior officer, where an official report has been requested, should commence as follows:

"In compliance with your order of (date) to investigate and report upon (here insert in capitals, if printed, or underscore if written, the title of the subject under investigation) I have the honor to report the following: (Then follows the result of your investigation)."

The object of this is to enable a busy man to see at a glance what the report is about. Another way of calling quick attention to the subject matter is to write at the very top "RE JOHN SMITH LIQUOR RAID". Then follows the result of your investigation.

The report should be short, concise, and to the point, being careful, however, not to leave out facts. You should incorporate all suspicious incidents, if any, with reasons for your suspicions, and refrain from personal opinions, unless especially asked for them. If it is a report which requires continued attention, it should be closed with the assurance that "The matter will be kept under surveillance and reported upon as new facts and suspicions arise."

If it be a report of a subject which will require no further investigation, close it up as follows:

Respectfully submitted,

(or, if not official) Name and Rank.

In making out a report on a complaint received at the station house, or where you are assigned to investigate such a case, the following facts are essential for a good report:

1. Do the facts complained of actually exist, or are they untrue?
2. Do they come within the province of the police, as a violation of the law, an accident, etc.?
3. Have you or any other police officer taken any police action in the matter?
4. Do the facts still exist or have they been suppressed?
5. Have you interviewed the complainant personally?

In making your report, be careful to cover the matter just as you will testify in court, because your report is a record and can be called into court. Your report should be a complete one, as some other officer may be assigned to take up the case where you left off, and he does not want to investigate what you should already have taken care of.

Always enter all material facts in your pocket manual regarding any such report, for future reference for yourself and others. In your future tours of duty be especially vigilant in obtaining any other evidence or witnesses that might be of value in these cases.

A good report should contain the names and addresses of any and every person injured, and a good description of the person wanted for the crime, if one has been committed. In dealing with women, get their first names. Viz: Carrie Walters, not "Mrs. John Walters". Do not use Miss or Mrs. unless it is to distinguish between two persons of the same name. Be sure to get the names and addresses of all witnesses.

Probably the first report you will be called upon to make will be a "Fire Report". The following are the facts necessary to make a complete report in a case of this kind.

FIRE REPORT - BELL ALARM

Time of the alarm.
Box number.
By whom sounded.
Location of the fire - street and number.
Part of the building on fire (first, second, or third story).
Material of construction - such as wood, brick, metal, or stone.
By whom owned.
By whom occupied.
Whether a dwelling or a business building (and kind of business, if it is a business building).
Cause of the fire.
The damage.

SAMPLE REPORT

Captain William D. Donovan
Division 3.

October 30, 1937.

Sir:

At 6:10 this P.M., box 1224 was sounded by a citizen for a fire on the first floor of a three-story wooden dwelling house at 243 Cambridge Street - owned and occupied by John Williams.

The fire was caused by children playing with matches.

Damage $500.

John M. Kelley,
Patrolman, Division 3.

STILL ALARM

This is reported just the same as a Box Alarm, except that there is no box number and all apparatus responding to the alarm is contained in the report.

SAMPLE REPORT

Captain Joseph McKinnon
Division 6.

Division 6,
October 30, 1937.

Sir:

About 9:15 this A.M., Engine 12, Ladder 4, and Protective 1, responded to a Still Alarm for a fire in the basement of the two-story wooden dwelling house at 12 Bell Street, owned and occupied by Harriet L. Murray.

The fire was caused by placing hot ashes in a wooden barrel, which caused the barrel and rubbish to catch fire.

No damage.

John F. Smith,
Patrolman, Division 6.

REPORT ON LOST, STOLEN, OR FOUND PROPERTY

Name and address of the person making the report. Location where lost, found, or stolen, and the time, manner of entry or taking of the property (as forcing open the kitchen window, by use of false keys, by picking the lock, by a pickpocket, etc.). Each article lost or stolen must be fully described and the approximate value stated.

DESCRIBE PROPERTY AS FOLLOWS:

Gold (gold-filled) (silver) open-faced (hunting case) Waltham watch, lady's (or gentleman's), 17 jewels, case number 19988772, movement 123454321, monogram "H.L.J." on outside (inside) of the case, valued at $75.00. In describing a ring with a precious stone, state the cutting and setting - such as Tiffany, Belcher, Basket, etc.

In describing clothing, state the kind of a garment, whether lady's or gentleman's; color; striped, plain or mixed goods; if an overcoat, state the length - such as full, half, three-quarter, etc., - whether belted or not, cuffs, maker's name on loop or pocket.

SAMPLE REPORT OF A LOST ARTICLE

Captain Thomas F. Harvey,
Division 16.

October 30, 1937,
Division 16.

Sir:

Mrs. Harriet L. Warner of 135 Pinckney Street reports lost, sometime between 8:00 and 10:00 A.M., in Mechanic's Building, her black morocco leather handbag, with the initials J.M.C. on lapel, containing two door keys, small mirror, powder puff and face powder, and six dollars in small bills and about 60 cents in small change. Handbag valued at $12.00, total value $18.60.

James J. Crowley,
Patrolman, Division 16.

SAMPLE REPORT

Captain Mathew Killen,
Division 13.

Division 13,
October 30, 1937.

Sir:

An owner is wanted for a black leather travelling bag, letters G.M.C. on the side, containing set of black military brushes and comb for same, 2 silk and cotton mixed union suits, blue pajamas, 3 pairs gentleman's socks, a Gillette Safety Razor in a black case, and other toilet articles.

Found by me at the entrance to the Forest Hills Elevated Station, about 8:30 P.M.

Walter E. Mack,
Patrolman, Division 13.

SAMPLE REPORT ON A BREAK

Captain James T. Sheehan,
Division 11.

Division 11,
October 30, 1937.

Sir:

Mrs. Carrie H. Lacy of 256 Welles Avenue, reports that sometime between 1:00 P.M. and 4:30 P.M. this date, her flat on the second floor of the above address was entered by means of false keys, during her absence, and the following articles taken:

A gentleman's gold open-faced Waltham watch, 17 jewels, case and movement numbers unknown. Monogram J.H.L. on outside of case,	Valued at $ 50.00
A lady's brown raccoon, one-half length fur coat, Filene and Company on inside pocket, large sleeves,	Valued at $175.00
A lady's gold ring, set with 1/2 carat diamond, tiffany setting,	Valued at $200.00
A lady's gold bracelet, old gold and snake design,	Valued at $ 15.00
Total Value	$440.00

Harriet Murphy, first floor, same address, says that a man who said he was an inspector for the Edison Light Co., with a badge on his hat, was seen by her in the entry, and that he had a large bundle with him, which he took to a waiting automobile in front of the house. He was then driven away by another man, who was waiting for him.

She describes No. 1 (the man with the badge): 24 years, 5-8, 170 lbs., light comp., scar like a burn over right eye, brown hair, blue eyes. He was dressed in a blue serge suit, blue cap with a badge - Edison Light Co. on the badge, black shoes, and looks like an American.

No. 2 (the driver of the car): 20 years, 115 lbs. (very thin), 5-9, light comp., light hair. Dressed in a light gray soft hat. The car was a black Ford coupe, very dirty, and had a Mass. Registration, but it was obscured and illegible to the woman. They drove towards Fields Corner.

John H. Laidlaw,
Patrolman, Division 11.

NOTES FOR STREET ACCIDENTS

1. Time of accident.
2. Name and address of injured person. Age, married or single, and nearest of kin.
3. What injured person was doing at time and place of accident.
4. Location of accident - street and number.
5. Cause of accident - if motor vehicle involved, get registration certificate and operator's license. If street car, get number of car, name and number of motorman and conductor. Direction in which vehicle was travelling.
6. If sent to hospital, how and by whom transported.
7. Diagnosis of injuries, giving doctor's name.
8. If property is damaged, get estimate of damage.
9. Names and addresses of witnesses and their statements.
10. Get property report from hospital.

SAMPLE OF ACCIDENT REPORT

Captain William D. Donovan,
Division 3.

Division 3,
April 29, 1937.

Sir:

About 3:10 this P.M. James Mooney, 39 years, married, of 128 Samoset Street, Dorchester, while walking in front of 1177 Cambridge Street, was struck and knocked down by a falling window blind, caused by a high wind working the blind loose from its sockets in a window on the second floor of a building owned and occupied by Samuel Cohen.

Mooney was removed to the Haymarket Relief Station in the ambulance of this division, by Patrolmen Kelley and Shea, where, upon examination by Dr. Devine, he was found to be suffering from a fractured skull and cuts and abrasions of the head and shoulders. His name was placed on the danger list. His wife, Mary, same address notified by me on the telephone.

Witnesses: James Mulkin, 58 Saxon St., Roxbury.
Mary E. Jones, 114 Walk Hill St., Roslindale.

Witnesses state the accident was caused as described above.

Property slip attached.

Respectfully submitted,

James E. Malloy,
Patrolman, Division 3.

SAMPLE REPORT OF A HOMICIDE

Captain Thomas S. J. Kavanagh,
Division 1.

Division 1,
October 30, 1937.

Sir:

About 11:30 this P.M. an unknown man, an Italian about 40 years, 165 lbs., dark comp., brown eyes, black hair, black moustache, prominent nose, and scar on left cheek - dressed in a blue pencil-striped suit, brown shoes, tan stockings, gray soft hat, and a heavy blue working shirt - was shot in front of the doorway of 128 Salem Street, by two men.

No. 1 - An Italian, 28 to 30 years, 5-8, 160 lbs., dark comp., big lips and a flat nose - dressed in a light gray suit, light fedora hat, and tan shoes.

No. 2 - An Italian, 24 years - 5-6, 140 lbs., dark comp., lame in left leg - dressed in a very light brown suit, light soft hat, and black low shoes.

Both of these men fired shots and then ran down Prince Street in the direction of the North Station.

The injured man was taken to the Haymarket Relief Station in the ambulance of this division by officers Patterson and Cunningham, where, upon examination by Dr. Devine, he was found to be suffering from bullet wounds in the left chest and abdomen. He died later, at 11:50 P.M., without gaining consciousness.

My attention was attracted to the above affair by hearing two shots fired and upon my arrival at the scene, I saw two men running in the direction of Prince Street. I immediately gave chase and followed them down Prince Street, where they turned into Causeway Street and disappeared in the vicinity of the North Station.

Mr. John O'Brien of 48 Charles Street, Charlestown, while standing at the corner of Washington North and Causeway Streets, saw these two men pass him and continue along Causeway Street, and one of them threw something into the doorway of 488. We searched the doorway and found a 38 Cal. Colt's D.A. revolver with one empty shell and four loaded cartridges in the cylinder. We also searched the neighboring doorways and at 468 Causeway Street we found a 38 Cal. Colt's Automatic pistol with four shots in the clip and the smell of burnt powder noticeable from it.

Mrs. Filomena Gaspari, of 66 Prince Street, says she noticed the above described men in the doorway of 129 Salem Street, and when the deceased came along, they both suddenly opened fire without any talk whatever. She describes them as above and, though unknown to her, she says she can identify them.

George Levine, of 89 Salem Street, says that the two men described above passed his store at the same address, one of them asking him for a match. They then went in the doorway of 129 Salem Street and remained standing at the foot of the steps for about ten minutes before the arrival of the dead man and that they shot him without any conversation or argument. They then ran down Prince Street. He says he can identify them both.

Respectfully submitted,

Walter Cowen,
Patrolman, Division 1.

MISSING PERSONS

When a person is reported missing on your route, get the following facts: Missing from, since; age, height, weight, complexion, eyes, visible marks or scars, nationality, occupation, whether alone or not. Description of clothing worn or likely to be worn. Reported by whom, address, date, and the division. In these cases, do not think that your duty ceases with simply reporting the person missing. Make a search of all places where the person may be found or information gained of him or her. Also visit the home of the person and make inquiries as to whether or not he or she has returned, or whether the family has any further information that may help in finding such person.

GENERAL DESCRIPTIONS

Your future success as a police officer and, in many cases, the successful termination of a criminal case, lies in your ability to furnish a correct description.

Try to ascertain the following information in getting a description of a criminal:

1. Name
   Age
   Height
   Weight
   Slender, stout, or medium build
   Round or stooped shoulders
   Color of eyes
   Color of hair
   Shape of mouth
   Shape of nose
   Shape of ears
   General expression of face
   Condition of teeth
   Smooth shaven
   Beard or moustache
   Color

2. Peculiarities of speech
   Peculiarities of walk
   Missing fingers or deformities of hands
   Scars, moles, warts, or discolorations of the skin on hands or face

3. Does he use tobacco? In what form?
   Does he use liquor or drugs?

4. Kind of clothes worn
   Color of ties worn
   Jewelry worn
   Member of what secret society?
   (General remarks)

If you got a description, over the telephone, from the station as follows:

"Wanted, for robbery on Division 10, a man about 25 years, 5-8, 175 lbs., light comp., blue eyes and brown hair; dressed in a blue suit and a light soft hat, tan shoes" -

Could you pick up the man wanted on this description? You can place yourself on almost any prominent corner and inside of a half-hour a dozen or more persons answering this description would pass you, and yet not one of them would be the person wanted.

On the other hand, suppose the officer knew his business in getting a good description of the person wanted - his description might read something like this:

"Wanted, for robbery, a white man, Italian, about 25 years, 5-8, 175 lbs., light comp., dark brown hair, smooth face, high forehead, Roman nose, high cheek bones, scar under right cheek bone, and walks with a slight limp. He was dressed in a blue pencil-striped suit with cuffs on the pants, belted back coat, low tan shoes with square toes, white soft collar, and a blue striped tie. Wears a heavy gold ring on little finger of left hand, and a gray Fedora hat."

Could you make a mistake if you saw this man approaching?

In questioning others regarding the description of persons wanted, remember they do not know just what you desire, and often they will not be able to give much of a description. But if you know how to ask for the information you desire, and know what is important in getting a description, you will be able to get a good description even from those who do not believe they know much about the affair. Many people observe peculiarities and things about others unconsciously, but they are unable to describe or tell these things unless they are brought to their memories by your questioning.

POCKET MANUAL ITEMS

POLICE RULES AND REGULATIONS

RULE 27

Section 2. Every patrolman shall keep a private record of his work in the filler attached to small pocket manual, with day and date, and shall enter therein all matters of importance in all work in which he is engaged in his official capacity, whether at court, or on his route, or elsewhere, and also any other matter of importance connected with the police of the city that comes to his knowledge.

RULE 44

Section 7. Each officer shall enter in his pocket manual the names of persons arrested by him, with such particulars as may be important on the trial of the case.

The following is a sample of the proper way that a patrolman should make entries in his pocket diary:

Monday, March 22/36 Fair.
Captain Mullen in charge.
Day Platoon.

Route 10. Relieved Sullivan.

8:30 A.M. to 9:00 A.M.
School Crossing, Cross and Salem Sts.

9:00 A.M. to 11:00 A.M.
Central Municipal Court, John Kelly, Larceny.
Case continued to Mar. 26/36.

First Dinner Hour.

1:00 P.M. to 1:30 P.M.
School Crossing, Salem and Cross Sts.

About 2:15 P.M. arrested Sam Meyers, 35 yrs., of 128 Cambridge Street. Assault and Battery on Jane Wilson of 125 West St., Newton, in front of 26 Salem St.

2:45 P.M. to 3:00 P.M. Investigated case of family trouble at the home of James Costa, 133 Endicott St. No prosecution. Report by telephone.

3:05 P.M. to 3:30 P.M. School Crossing at Salem and Cross Sts.

4:10 P.M. Found hole in sidewalk in front of 32 Wiget St., 28 in. by 22 in. and 16 in. deep. Caused by recent rain, and a cave-in. Report made.

4:25 P.M. to 5:00 P.M. Watched the premises at 146 Prince St., suspected house of ill fame. Saw two men enter at 4:30 and come out at 4:40 P.M. Two others entered at 4:35 P.M. and came out at 4:55 P.M.

Relieved by Sullivan.

Tuesday, March 23/36 Fair.
Captain Mullen in charge. Day Platoon -

Route 12. Relieved McDonald.

8:15 A.M. to 10:00 A.M. detailed on traffic North Washington and Thatcher Sts.

11:30 A.M. Arrested John Hickey, 22 yrs., of 12 Weston St., Rox. Larceny of 50 lbs. beef from the Union Market, 10 Union St.
Witnesses: James Waters, 15 Loring St., South Boston and Jerry Martin, 160 Falmouth St., City, both employees of above concern.

Second Dinner Hour.

2:30 P.M. to 5:00 P.M. Detailed to Band Stand on Boston Common. Communist meeting. No trouble.

Relieved by McDonald.

Wednesday, March 24/36. Fair.
Lieut. Shea in charge. Evening Watch

Route 1. Relieved Palumbo.

6:30 P.M. Arrested Walter Ivers, 36 yrs. of 125 Ivy St., City. Drunkenness in Scollay Square.

8:00 P.M. to 8:15 P.M. Investigated an attempt to break and enter at the Swan Book Shop, 15 Hanover St. Attempt was made to enter by rear window, but they were evidently scared away by the officer making his rounds. No description of the culprits. Report made.

10:00 P.M. to 11:30 P.M. Detailed to three alarm fire at 126 Morton St.

12:15 A.M. Arrested John Bono, 45 yrs., married, of 128 Charter St. Assault and battery with a revolver, with intent to kill. Chelsea Police requested arrest.

Relieved by Atkinson.

Thursday, March 25/36. Fair.
Lieut. Rymes in charge. Morning Watch.

Route 1. Relieved by Atkinson.

1:10 A.M. found door in rear of 24 Portland St. unlatched. Day Hardwood Floor Co. Secured door with dutch lock. Investigation discloses no break. Notified station.

2:00 A.M. Found stolen automobile. Mass. Reg. 11,749, Hudson Sedan, stolen from Quincy, Mass. 3/23/36. Notified station. Car removed to Terminal Garage at 2:12 A.M. Towed.

2:30 A.M. Investigated disturbance at 126 Salem St. second floor. Arrested John Bianco. Assault with intent to kill with knife on Gino Gardino. Argument result of card game.

Witnesses, John Florentino, 138 North St., Angelo Gardino, 126 Salem St., sister of victim. When arrested, Bianco gave address of 64 Summer St., Lynn. Investigation found he is 35 yrs., married, and lives at 142 North St.

5:30 A.M. to 7:45 A.M. Traffic assignment at Hanover and Blackstone Sts.

Relieved by Palumbo.

PART II

MODUS OPERANDI

(CRIMINAL METHODS)

Chapter Sixteen

CRIMINALS, MODUS OPERANDI, ETC.

To be a success as a police officer it is necessary to have some knowledge of the manner, methods of operation, habits, slang, and general makeup of criminals. With the knowledge of what to look for and what to expect from professional criminals, it will make you observant and suspicious of certain persons with whom you come in contact during your tours of duty.

A criminal is one who commits a crime. A person of sufficient understanding who wilfully does an unlawful or injurious act to another.

The professional criminal makes his living through a life of crime. In most cases he does no labor himself; he lives on the fruits of another's toil; and in order to satisfy his desire for gain or pleasure he is willing to destroy life, outrage virtue, and break any God or man-made law. As such he is an enemy to society.

A crime is an act committed or omitted in violation of a public law either commanding or forbidding it.

Generally speaking crimes may be divided into two classes: Those committed for gain and those committed with violence. In crimes committed for gain the motive is to acquire wrongfully the property of another. Three-fourths of all crime comes into this class, which includes all forms of stealing, burglary, robbery, swindling, forgery, counterfeiting, kidnapping for extortion, blackmailing, arson to defraud the insurer, dealing in contrabands such as liquor, narcotics, stolen jewelry, silks, etc. Crimes of violence are generally committed for other reasons than gain, such as murder, assault and battery, rape; but some crimes embrace both classes such as robbery, kidnapping, piracy and murder.

All criminals are classified according to their "modus operandi" (method of operation). The murderer is so classified because his particular crime is the unlawful killing of a human being. The counterfeiter, because he makes false money in the similitude of the genuine. The burglar is so called because he steals in conjunction with a breaking and entering.

So we see that all names for criminals are based on his particular method of operation. In studying the criminal it affords a satisfactory method of approach no matter what his motive may be, lust, anger, revenge, jealousy, greed, vanity, insanity or depravity; whether or not he is psychopathic or moronic, or a first offender or a recidivist.

John Edgar Hoover, Director, Federal Bureau of Investigation, U. S. Department of Justice, has stated that at the present time there are at least 4,300,000 criminals in the underworld of the United States. He also says, "It seems incredible that in a country as advanced as America each setting sun should look down upon a daily toll of some 36 lives, taken at the hands of the underworld -- one such murder being committed every forty minutes. Likewise, it seems inconceivable that in such a nation there were 1,333,526 major crimes committed in 1936, including 13,242 murders and manslaughters, 7,881 cases of rape, 56,660 cases of robbery, 47,534 cases of aggravated assault, 278,823 burglaries, 716,674 larcenies and 213,712 cases of automobile theft, with an annual crime bill estimated at $1,500,000,000.

Criminologists claim that ninety per cent of this vast amount of crime is committed by habitual criminals or recidivists. A close study of their characteristics show that the vast majority of them are unintelligent, suffering from some virulent disease or physical neglect, seldom have a healthy interest in life and are usually in the moronic or mentally deficient class. Born and reared amid squalor and vice, the offspring of unfit parents, the heirs of depravity and disease, they have little preparation to offset the vicious influences with which they are bound to come in contact. In their daily life they are addicted to intemperate habits, the use of alcohol or narcotics, and through laziness or incapability they are useless for any sustained form of manual labor. It stands to reason that these persons will choose the life of the criminal, the underworld, in preference to a life of honor and toil.

As most crimes are committed for gain, that is, financial recompense, it can readily be seen that thieves of one kind or another will and do predominate as a criminal class.

Generally speaking, one who steals is a thief, but the law and the police do not list him as such. If a man breaks into a house and steals a watch, he is a burglar, because he broke into the house and at the same time committed a larceny. On the other hand, if he steals the watch without breaking in, it would be stealing and a form of larceny. If he stops the owner in the street and holds him up and forcibly takes his watch from his person, that would be robbery; and a more serious offence if a weapon was used. However, no matter how the thief obtained the watch, the result for his purposes is the same; he obtained the watch and he is a thief. The method of his stealing is what distinguishes the thief from the burglar and the burglar from the robber.

It is practically impossible to typify the thief. There are almost as many kinds of thieves as there are religions. We have express thieves, doormat thieves, chicken thieves, clothing thieves, dog thieves, auto thieves, diamond thieves, store thieves, poor box thieves, money thieves, horse thieves, cattle thieves, pilferers and petty thieves too numerous to mention.

Opportunity is often a factor in the commission of theft. A pickpocket may rather pick a pocket as his means of stealing, or a diamond thief may prefer stealing a diamond tiara, or the "hop head" may steal just to get his daily allowance of drugs, but give any one of these an opportunity to steal $100,000 and get away with it, they will have no hesitation about stealing it. The petty thief may not want to take a chance on a holdup, because he has not enough courage, and the holdup man would not pick a pocket, because he believes it beneath him, but either one will take a chance where there is enough money in it even though it is out of his particular line.

Petty larcenies are a source of continual annoyance to all police departments. The petty thief is everywhere. Look on the daily police blotter and you will find a record of petty larcenies that includes most anything from a loaf of bread to a suit of clothes.

Thieves of this type, generally speaking, are not professionals, because this form of thievery does not bring results enough to make it pay. It is confined mostly to youngsters on their first trip into criminality, hoboes, dope fiends, dishonest neighbors, and other persons of low mentality who are ever ready to snap up anything they can lay their hands on from an old pair of shoes down to a leather suit case.

There have been millions of dollars spent, much time and study by criminologists, scientists and social workers in the reformation of criminals, and many organizations established for the rehabilitation of criminals. There is no doubt that all this time, effort, and expense has brought about considerable good results and it is not my purpose to enter into any lengthy discussion on this phase of criminality because it is worthy of more thought and consideration than is possible with my mental endowments. However, with all that has been done in reforming criminals, it is generally accepted that the vast majority of them come to a sad end. Whether or not they are in prison, they seldom live a normal life. The hectic life of the underworld with its orgies and dissipation soon demands its toll. Dissolute and diseased - they end their days in some institution, public hospital, or hovel, - unwanted, unloved, without friends, in pain and tortured by the memories of their many acts against the laws of God and man.

Few, if any, thieves ever gain by or really enjoy the proceeds of their criminal operations. They get started in a life of crime and a reckless, violent agitation drives them on to still greater criminal actions until they are finally stopped by arrest, conviction, and imprisonment; or they run up against an alert policeman who is willing to battle with them and they end their days by a police bullet. The stolen money is paid out by them to other crooks as a price for silence, lost in crooked gambling games, spent on their lady friends, and carousals before they have time to realize its ownership.

The trained police officer makes use of psychology in finding clues at a crime scene and from his own observations and information received, he is able to form conclusions as to the guilty party and arrest the criminal. Modus Operandi (that is the manner in which he works) is usually right before your eyes and all criminals are classified by this method. So you, the police officer at the crime scene, should be careful to pay particular notice to the method or manner of operation of the criminal in the commission of his crime. By this method, you will obtain clues to his identity or personality that are left at the scene of the crime. If it is a burglary, you should notice the manner of entrance, tools used, property taken, means of exit, part of the building entered, what he did while in the building; e.g. tossed things around, smoked or drank liquor, slept or lay in bed, ate food, committed a nuisance, damaged the walls or mirrors by writings, paint, etc., the rooms he entered or did not enter, and in general everything he did while on the premises. All criminals have peculiarities, and in their commission of crime they most always follow certain lines, or do things in a certain way which is often a direct clue to the perpertrator.

If it was a confidence game case, the officer noted whether or not a check was used or some other false representation, the full method of deceit used, the manner of meeting or forming acquaintance with the injured party, where it happened, the number concerned in the affair, and their descriptions. He then looked up the records of all criminals who act in a similar manner, and if they are at large, checked up on them, eliminating all others. By this method of operation, he is often able to locate the perpetrator by clues given in his Modus Operandi.

When we have an epidemic of vicious sex assaults on women and children, the live officer immediately searches the vicinity for known sex perverts, epileptics, persons known to be addicted to such crimes, and other morons or other low grade mentalities. On examination of a crime scene or in questioning the person injured, remember that the motive and his Modus Operandi often lead directly to persons of psychiatric conditions. Many crimes, from the manner of their commission, readily suggest persons who are abnormal, moronic or feeble minded, and these facts should be clues leading directly to the guilty person.

Chapter Seventeen

PICKPOCKETS, MODUS OPERANDI

Of all the professional criminals there are probably more "Pickpockets" than any other class. They are so numerous that every large police force has a special pickpocket squad or detail.

Pickpockets in criminal argot, are known as "Dips". They are of all nationalities, both sexes, and generally between the ages of sixteen and seventy. Pickpockets, as a class, are generally regarded as the smartest of all crooks by the police. For police purposes, they are usually divided into two classes, the "Lone Wolf", (because he works alone), and the "Gun Mob", or "Cannon Mob" (who generally work in groups called "Mobs" of from two to five men and sometimes even larger). One of these men is called the "Wire" or "Tool" as he is the one that actually, "Lifts the poke" (steals the purse) of the victim. The others are called "Stalls".

The "Wire" must be instructed in his art by an experienced "Dip". In the first place he must have nimble fingers and a light touch. He must spend hours and hours of practice before he can hope to be moderately successful. A characteristic of a good "wire" is to have a first and second finger of the same length. The pickpocket does not put his hand in a person's pocket to draw out everything he may find there. If he attempted this, he would be extremely lucky if his victim did not realize he was being robbed. On the contrary, the "Wire" places his forefinger and middle finger in the open pocket and gently pulls the lining until the paper money or purse is brought to the top. He does not take chances on silver or change, as it is not easy to do so, but it is entirely different with paper money or a purse. Generally, they use the first and second fingers like a pair of scissors, to get hold of and draw out the loot.

While he is working, the "Stalls" screen his victim from view, create opportunities for the "Wire" to work by one or two of the "Mob" getting in front of the victim as he is getting on a street car, causing a crowding and a chance for the "Wire" to work. Another man is behind the "Wire" screening him from view, and if the "Wire" is successful the money or purse is passed to him and he immediately disappears. The "Wire" or "Tool" is very careful never to be found with the purse or money on his person. He passes it immediately to one of the others, so that if he is accused, or arrested, the money or purse will not be found on him.

The pickpocket, on account of the danger in his calling and the scarcity of golden opportunities, does not like to put his hand into a person's pocket unless he is practically sure of getting something worth while. So the "Mob" are on the alert at railroad depots, steamboat wharves, and other points of departure, figuring that a person travelling, naturally will have with him the necessary amount for his trip, and he will show his purse while buying a ticket, etc. Banks, large stores, markets, etc., are also watched for persons who apparently have large "Rolls" with them. These persons are then noted and followed for a favorable opportunity to get him into a pocket or crowd and let the "Wire" get in his work.

Circus days, parades, conventions, etc., are favorite working places for these mobs, because of the crowds and the possibility of their having money with them. Sometimes they work ruses to create crowds, such as having someone start a street fight, throw a fit, feign illness, act like a clown, etc., anything to get a crowd together in a public place so that the gang can get to work.

Always regard suspiciously any person you see jostling other persons in a crowd. Watch to see if there appears to be unnecessary pushing or crowding, and especially if they are trying to get someone into a pocket. Be suspicious of a person wearing an overcoat on a hot day, (that is, if he is with others) especially so, if it appears to have large pockets, as you may spot a "Dip" with a "Binny". A "Binny" is an overcoat with large pockets especially arranged so that the "Dip" can slip his hands through them and work from the inside of his coat. It is also convenient for carrying the stolen purses, etc.

Keep in mind that a "Dip" loves a crowd. He is a "Dandy" as a rule. His fine clothes, plastered hair, manicured nails, and air of prosperity exempt him from suspicion unless an experienced officer happens to be on the job. When arrested, they are great bluffers. They tell you of their high business and social connections, show letters and cards to prove what they say is true. They, to excite the sympathy of the crowd, threaten you with dire results if you arrest them; but remain firm, you have the right parties, and when you arrive at headquarters, you will find that the old inspectors will recognize them right away, and generally, they have a record in most of the large cities of the country.

Pickpockets are great users of slang and it may be well for you to know some of it.

To be arrested is to be "Knocked off", or "To get a fall".

Fugitive is a "Lamster".

To run is to "Take it on the lam".

The pickpocket is the "Wire" or "Tool".

The one who covers him "The Duke Man".

The blockers are "Stalls".
A pocketbook is a "Poke", or a "Leather".
A ring is a "Hoop".
A watch is a "Super".
A detective is a "Dick", or a "Richard".
A pickpocket who steals from women is a "Moll Buzzer".
A thief is a "Grifter".
A pickpocket is a "Gun", "Cannon", or "Dip".
A jail is the "Can".
To recognize is "To make".
An identification is a "Rap".
A report of a theft is "A Squeal" or "A Holler".
News of a good place is a "Tip".
Robbing drunks is "The Mary Ellen".
A name is a "Monicker".
A street car is "A Short".
To get out of jail is "To be sprung".
$1000 is a "Grand".
$10 is a "Saw Buck".

Pickpockets as a rule have plenty of money and when arrested they employ the best of counsel. When you arrest a "Dip", always have him identified by the person whose pockets were picked; if possible, get a statement in writing from this man, telling just how it all happened. Remember, that pickpockets often try to intimidate witnesses, and if this does not work, they will offer him money to forget what he knows. For instance, a poor man may be going home on a street car with his week's pay in his pocket, and it is stolen from him. He is alive enough to realize he is being robbed and he chases the thief, capturing him, and causing him to be arrested. He tells a very good story to the officer at the time of the arrest and is positive that this is the man that took his money. The case comes before the courts and is continued. In the meantime, someone approaches the man and offers him his money and more besides, if he will just not be sure that the man arrested is the one who picked his pocket. It is a big temptation to the poor man, especially when he will get his money and a present besides, and in many cases you will find that the complaining witness has a lapse of memory when he testifies at the trial. So be sure and have him make a positive identification, tell his story in the presence of witnesses, and warn him of the heavy penalties for perjury, and compounding a felony, and that you know that he is going to be approached. If you do not do this, you may be sure you are in a fair way to lose your case in court.

Pickpockets are known by their modus operandi, and their methods of operation are clues to their identity, such as:

Pants Workers: Those who make a specialty of stealing from pants pockets.

Binny workers: Those who use an overcoat with large pockets from which they can work with the hands and the overcoat hides their operations.

Newspaper workers: Those who use a newspaper spread out by one of the "Stalls" apparently reading it to cover the work of the "Dip".

Handbag workers: Those who make specialty of opening women's handbags in stores, elevators, crowded places, etc., and stealing their purses or valuables.

Knife workers: Those who cut a pocket with a sharp knife or razor blade for the purpose of extracting what is in it.

Diamond snippers: Usually women who get a man into a dark doorway throwing their arms about him in an embracing position and extracting his diamond pins from his neckwear or if possible, rings from his fingers.

Chapter Eighteen

BURGLARS, MODUS OPERANDI

Burglary at common law, is the breaking and entering of the dwelling house of another in the nighttime with intent to commit a felony therein. In Massachusetts, by statute, we have made almost every kind of breaking and entering burglarious, whether or not it is in the day or nighttime.

While burglary does not actually require a stealing or an intent to steal to make it this offence, as we know that the breaking and entering with intent to commit any felony is enough, yet in most cases, burglary is committed with intent to steal. The losses from this particular form of thievery is yearly over $150,000,000 in the United States.

There are many different classes of burglars, such as: house breakers, hotel burglars, second story men, loft burglars, safe breakers, etc., who generally commit their crimes at night, although a considerable part of their work is done in the daytime also.

The most common type is the housebreaker. He generally works in the daytime. He goes along a street looking for a likely place as he passes. He is especially observant of those houses where the shades are drawn, mail, groceries, and milk not being taken in, the garage door open, and the car evidently gone out. These are good signs that the occupants are gone out. He may notice a woman come out of a house with a child along with her, evidently going out for the day, and an automobile drawn up to the door to take her away.

When he decides on a house as a good prospect, he will go up the steps to the front door, ring the bell, and if someone answers, he will ask for a Mr. Smith who is supposed to live in the neighborhood. Sometimes he poses as a salesman taking orders for some magazine, or he has a cheap line of small wares for sale. In some cases, he poses as a gas, electric, or telephone inspector in a large apartment house, just as an excuse to be admitted and get the lay of the land. If no one answers his ring, he then goes to the back door and rings that bell, if no one answers, he is reasonably sure that no one is at home. He then uses false keys, or if necessary, forces open a window or door with a jimmy.

Once he is on the inside he immediatly arranges for a quick getaway. If he expects the occupants will come by the front door, he arranges to get out the back door, or if they come the back way, he fixes things to get out the front door. Sometimes he arranges to get out either door or through a window and locks all doors on the inside so as to prevent himself from being surprised.

The professional house burglar likes to work alone. He takes nothing but money, diamonds, silver, or gold. He does not bother with bulky things or things of small value. Some of them will take nothing but money, even passing up valuable silverware and jewelry. If he happens to find diamonds, he will pry them out of their settings, because he knows that the settings can be identified by the jewellers who made them.

With the amateur it is different, he is liable to take anything that appears of value including furs, clothing, silverware, rugs, and any other bulky objects, which oftentimes lead to his capture.

It is surprising how thorough a search these crooks can make in a very short time, usually from five to ten minutes, and in this time they will thoroughly ransact a flat in such a manner that rarely anything of value escapes their notice.

The appearance of a man generally decides in what neighborhood he must operate. The well dressed, smooth talking gentleman in speech and behavior will be found in the rich neighborhood. He is sometimes referred to as the "Gentleman Raffles" on account of his swell front and gentlemanly manner.

On the other hand, the bum or down-and-outer has to confine himself to the localities where his appearance and clothes will not excite suspicion.

The second story man is one who makes a specialty of working through the upper stories of houses while the occupants are at dinner, or while at a reception, card game, or house affair, and the guests leave their expensive fur coats and handbags in some particular room, giving the thief ample time to select what he wants and depart with the loot.

Not long ago, there was an epidemic of house breaking in a certain part of the city occupied by the well-to-do. At this particular time a large opera company was playing in Boston. A young officer in plain clothes was assigned to the opera house to watch for petty thieving from parked cars, etc. He was stationed there as usual one night, when he noticed a man taking down numbers of cars and writing them into a small book. On closer investigation, he recognized him as a well known flat-worker. He proceeded to keep his eye on him. The man went to a nearby telephone booth and did a lot of telephoning, then came out. The officer decided to follow him. The man got into a waiting automobile, with the police officer not far behind. When he approached the Back Bay section of the city, he turned into Beacon Street and seemed to be looking for some number. He suddenly stopped in front of a house, went boldly up the steps, rang the bell, and appeared to have a short conversation with someone, and was admitted. The officer was satisfied that all was not right and telephoned the station for assistance. The house was quickly covered, both front and rear. Shortly afterwards, the man came out of the house with a large bundle under his arm, stopped on the top step, and evidently had a conversation with someone; he then raised his hat and came down the steps. The officer was a little undecided what to do, but knowing the man he was dealing with, he made up his mind to question him. So he stopped him and upon examination of the bundle found furs, jewelry, and other valuables rolled up in a fur coat. He then went up to the door and rang the bell, but no one answered. About this time, a member of the family came along, and after explanations admitted the officers and no one was found inside.

The crook afterward admitted that he watched the automobiles at the opera house to find out who was attending the show. He then telephoned their homes, and if no one answered, he had a prospective place to burglarize. He usually went boldly up the front steps and rang the bell. He had a large overcoat with pockets so arranged that he could work with false keys on the lock while apparently waiting, and if he got the door open he would act as if he was in conversation with someone on the inside, so as to throw off the neighbors if any of them were watching him. He did the same thing on coming out. He had the door tied to his arm with a string, and after he was outside he would act as though talking to someone on the inside, lift his hat, turn and walk boldly down the steps. The string would close the door and then break without anyone noticing anything amiss.

Do not let the name "house breaker" imply a seasoned or hardened criminal. In many cases, two or three boys well acquainted in the neighborhood can pull off a number of these breaks with all the appearances of the professional and never be suspected, because in the cheaper localities it is to be expected that children will be seen going in and out of houses. Thousands of dollars have been taken by these youthful thieves and sold to "old gold buyers" for practically nothing in regard to the goods' original value.

Their knowledge of the vicinity, the people living in it, their ability to climb up onto porches, or through open windows, and the quickness in which they can literally disappear when someone becomes suspicious of them, makes it easy for them to accomplish many of these breaks without fear of discovery until some wise officer finds them in the act of selling the loot on the street or to one of the above-mentioned dealers.

So, in cases where there is an epidemic of breaks of this kind, make inquiries as to what boys seem to be well supplied with money, especially so when this is happening in one locality. Generally you will find the guilty ones and in turn be surprised by the ease and audacity in which these crimes were pulled off.

Chapter Nineteen

STORE AND LOFT BURGLARS: MODUS OPERANDI

Store and loft burglars work much the same, that is, in gangs as a rule. They are not the accomplished gentlemen, nor are they so expert in the kind and value of goods as the more finished house breaker.

The store burglar never tries to break into a place unless he is thoroughly familiar with everything about the store. He may get a job in the place, and observe how things are done, whether or not there is a watchman, and how he rings his boxes or makes his rounds, whether or not anyone sleeps in the store, and where the valuable articles are kept.

They use many different methods to gain entrance in a store. Sometimes it is done by picking the lock, jimmying the door, breaking a window in the door and unlatching the lock. Another method is to bore or cut through the wall from the adjacent building, cellar, or ceiling. They are careful to locate burglar alarms and cut the wires to prevent an alarm. Sometimes they paste paper over a window and break it with a brick, the paper tends to hold the pieces of broken glass together and prevent noise.

Loft burglars operate much the same, that is, they spend plenty of time in getting the lay of the land. They watch the police, get a line on how he pulls his boxes, and patrols his beat, and when there will be a large amount of valuable goods in the place. When they get ready to pull the "Break", in many cases they do not actually break in. They manage to get one of the gang into the building and hidden away before closing time. He then opens up the doors to let the others in, after the proprietors have gone for the day. Once inside, they quickly assemble all the valuable merchandise they have customers for at some convenient door. At an opportune moment, an automobile backs up to the door and the goods are quickly loaded and taken away.

Remember that this is not always done late at night. The burglars may be in the building all night and the doors apparently appear all right when you try them on your tour of duty. They wait until just before opening up time, when an automobile drives up to the door and the loot is loaded on. This is done to allay suspicion, because if you saw a car backed up to a building or warehouse late at night loading goods, naturally you would investigate, and probably catch the criminals in the act. On the other hand, if you saw an automobile loading goods at just a little earlier than usual, you would be inclined to believe that the business people were getting an early start, and think no more about it. Get a line on when business places open up, and if you see a case of this kind, make a thorough inquiry to make sure that thieves are not putting something over on you.

Loft burglars do not like to actually break in from a street door. They seek opportunities from fire escapes, cellar windows, skylights, and even have been lowered from the roof on a rope to an open window to gain an entrance. As the loot in most cases must be bulky, it necessitates the use of an automobile or truck of some kind. Be suspicious of automobiles and trucks that appear to be aimlessly rambling about in a certain area, as they are probably awaiting an opportunity to get you out of the way, and load up stolen goods from some warehouse or shop in the vicinity.

There have been many instances where a thief will approach a store in the select shopping district, where there are furs and other valuable merchandise on exhibition. This is usually at night, and you may be sure he has watched you and your method of patrolling your route. At an opportune time, he suddenly throws a large stone or brick through the plate glass window, seizes a couple of valuable fur coats or dresses, and is off in a waiting automobile, before you or anyone actually know what has happened. This is often done in the daytime in the jewelry section, when in a similar manner, a brick is thrown through a window, and a valuable tray of diamonds is quickly snatched from the window, and the thief lost in the crowd.

Many times, gangs of young boys roam about at night in the residential section and break into drug stores, grocery stores, and other small shops. They do this for fun and excitement, stealing candy, cigarettes, and the small change left in the cash drawer. They soon commence to be more daring and break into garages, shops, factories, etc., to get tools to pull off a more complicated break, and before long become full fledged burglars. This is the beginning of the so-called gangster, and soon there is an admiring number among their friends that start them on their way as criminals and a career of crime.

A police officer, especially those patrolling in the business districts, should never be regular in his method of patrolling his beat. He should change his methods every night and frequently double back over the parts he has just covered. Bear in mind, that the wise crook never likes to take a chance on breaking into a building, unless he knows where the officer is or is reasonably sure he is not in that vicinity. In your travels, pay particular attention to those places that are known to have valuable goods stored in them and no watchman on the premises. Be especially suspicious of any condition or person that wants you to go onto an adjacent route or some distance away for some police purpose. They may be seeking to get you off your route to pull off a break, or load up a car with loot.

Chapter Twenty

"SAFE CRACKERS" MODUS OPERANDI

Another form of burglary is in forcing a building to rob a safe. Safe blowers, as a class are generally old and experienced criminals who will have no compunction in shooting to kill, if they are discovered in the act of blowing or cracking a safe.

In the old days, this kind of work was done by the old time "Yegg Man" who rode about from place to place on freight trains, or the blind baggage of a passenger train, and slept in barns or the open air. He pulled off his jobs in country post offices and small banks of small towns. He seldom got over two or three hundred dollars at the most, the price of one good spree, then he moved on to the next place.

These men, and in many cases it is the same today, stole their dynamite from railroad yards, construction camps, and quarries along their route of travel. They then took the dynamite and cooked it over a fire in the woods some place to get the "Soup" (nitro-glycerine) from it, which is one of the most powerful explosives known, and this is what they used in blowing a safe.

The yegg man of today is more up-to-date. He travels about in his own or a stolen car of a classy make. He and his pals live in a high class neighborhood, pose as business men or salesmen for some large firm. In other words, they try to put on a swell front and avoid any suspicion of them or their actions.

They are very careful about picking the place or safe they intend to crack. They have such a place under observation for weeks, and often months before they form their plans to force an entrance. One of the gang learns whether or not the money, jewels, bonds, and other valuables are put into the safe and when will be the best time to pull off the job and find the valuables there. If it is a bank, he may have money deposited there or he may hire a safe deposit box, just to learn how things are done, and the strength of the vaults, safe, etc.

On the night that they pick to do the job, which generally is on a Sunday or holiday, because of the time it gives them to operate, everything has been sized up and arranged for before hand. The officer of the beat has been watched, and his movements noted, if there is a watchman, he is observed and at the proper time laid out or otherwise taken care of. Generally two men go inside the building, both of whom understand how to use drills, bore holes in steel, and how to apply the "Soup" (nitro-glycerine). The others remain outside ready to give the office (give the alarm) and if necessary, will shoot to effect their escape.

If it is an ordinary safe, the "Pete man" or "Soup man" makes what is known as a "Jamb shot". This is done by inserting a sheet of paper into the interstice or door crack. If it is an old style safe this is easy. Then soft soap, which is moulded into a sort of putty, is plastered up around this paper to form a cup. The "Soup" is then poured into this cup. When the paper is pulled out the "Soup" runs down from the cup into the crack and into the safe. About one ounce of nitroglycerine is used for this. Then the bonnet with the strings (fuse) is attached and plastered into place with soap. It is then exploded and the door is opened or not according to the success of the job.

The most common method used today is to knock off the dial with a sledge hammer, then tap a punch into the lock with a lead hammer until the spindle is forced back and the door opened. If this method is not successful they make what is called a "spindle shot", by pouring some "soup" into the lock onto some cotton and shooting out the lock.

The "Drill Hole" method is to drill a hole into the lock, allow the "Soup" to run into this hole onto some cotton and then shoot it by a fuse. This all applies to old time safes of twenty years ago.

But the modern safe with its walls of hardened 6-inch steel, has been built to stand the shock of a charge of nitro-glycerine, and also to prevent electric drills from penetrating it. So the yegg-man was up against it until the oxy-acetylene burner came along.

This was tried on several safes, but it was found that the excessive heat burned the necessary holes to open it all right, and in so doing burned the paper money and melted valuables so that this was not much of a success. For a while, they were stumped again, until another yegg conceived the idea of burning a small hole in the safe, then flooding it with cold water. This enabled him to burn a larger hole to open it, and the paper money and valuables were found intact. This has been causing considerable worry to banking officials in small towns, but in the large cities it is not used so much because of the trouble of getting the tank of oxygen and acetylene on the scene without being detected.

We have also what is called the "Can opener" method. This is used on the old fashioned safes that had a thin back or bottom. It consists in punching a hole with the sharp end of a steel bar in the bottom or back of the safe. Then the other end of the bar, which has an arrangement similar to the ordinary can opener, is used to cut out a piece of the steel large enough to insert the hand and draw out its contents. This bar is carried to the scene in two pieces, which are joined together when they are ready to be used., One end of the bar is of hardened steel tapered down to a very sharp point, the other end is rigged up with a cutting edge just like a can opener. When the hole is punched through the bottom, side or back of the safe, the cutting edge is then inserted and two or three men get on the bar and cut out a piece of the steel just like opening a can of sardines and the rest is easy.

Of course the large safes, storerooms, etc., of the large metropolitan banks are practically immune from these depredations, because it would take enough nitro-glycerine to blow up the whole city to open one of these vaults with its massive doors of steel, and even then, they would still have the inner doors to contend with.

To combat this type of crook, business people should be warned not to leave money or valuables in the safe during the nighttime. Safes are a necessary and convenient place to hold valuable goods during the daytime, but deposits should be made daily in some big banking institution. In those stores that keep open late at night, the safe should be in a well lighted place so that the officer in making his rounds, can see it at all times.

If you have a safe job committed on your route, be careful about fingerprints as a safe is an ideal place to look for such prints. Always place a guard around the safe, so that no one can touch it until the arrival of a fingerprint expert from headquarters, who will take the impressions, etc.

BURGLAR'S TOOLS

Often in your handling of burglary cases, it is well to remember that if you find any kind of tools used by such burglars or intended to be so used, they may be prosecuted under our general laws for the offence of having in their possession, etc.

Chapter 266, Section 49. Whoever makes or mends, or begins to make, mend, or knowingly has in his possession, an engine, machine, tool, or implement adapted and designed for cutting through, forcing, or breaking open a building, room, vault, safe, or other depository, in order to steal therein money or other property, or to commit any other crime, knowing the same to be adapted and designed for the purpose aforesaid, with intent to use or employ or allow the same to be used or employed for such purpose, shall be punished by imprisonment in the State prison for not more than ten years or by fine of not more than $1000, and imprisonment in jail for not more than two and one-half years.

According to this chapter and section, almost any kind of a tool could be classed as a burglar's tool, provided it could be used to force open a building, vault, room, etc., and they had an intent to steal or commit any other felonious offence.

But an officer who makes an arrest for this offence, must remember that in order to convict, he must be able to show that the offender had the tools in his possession with intent to use them for these purposes. For instance, a carpenter might be abroad in the early morning hours to go to a distant job and have his tools with him. This would not justify an officer in holding him up and arresting him for having burglar's tools in his possession, because the officer could not prove any intent to use them in a felonious breaking. On the other hand, a known criminal or other person found under suspicious circumstances in a section of the city where he did not reside and apparently not on any legitimate business there, this would be good grounds to believe he had the tools for an unlawful purpose and he should be arrested.

Burglars are very clever in getting their tools to the scene of a crime. Often they will carry them to the crime scene in the daytime and hide them in the vicinity. Sometimes they pose as musicians coming from a dance, and have a violin or guitar case under their arms which contains the necessary tools, and often deceives the unobservant officers that they pass. Sometimes they have women carry some of the tools in their bags, etc.

If you have reason to suspect such persons after following them, and you stop and search them and do not find the tools, be sure and look in the adjacent doorways, alleyways, etc., to see if they have disposed of them in this manner.

If you locate a building or other place where an attempt or actual forcing of a door, window, etc., has taken place, and you find tools there that might have been used in such forcing, be sure and get your side partner or other witnesses to be present while you try the tools to see if they fit the impressions made, so that you may be able to testify to this fact in court.

Blacksmith shops and machine shops are likely places for criminals to break into, to steal the necessary tools for their larger depredations. Be on the watch for strangers who want blacksmiths and machinists to make jimmies, punches, odd style crow bars, etc., and you may get a line on criminals of this sort.

Chapter Twenty-One

BANDITS, MODUS OPERANDI

In almost every edition of the newspaper we read of a "Hold up" of some kind; bank robberies, train robberies, gas station holdups, chain stores being robbed, holdups in restaurants, residences, at parties, in the street, and even at gambling games. This is so much so, that it seems of daily occurrence, and in many cases has terrorized the population of some parts of our city.

These bandits are generally ex-convicts, jail-birds, thugs, and others who have shown their willingness and ability to commit a murder to gain their ends. They are a vicious, ruthless, and depraved lot and as such they are an enemy to society. There is nothing romantic about them. In fact, a bandit is never a success unless he is a murderer, as sooner or later, he is bound to have to shoot it out to make his escape.

These crooks work in gangs or bands, and usually make their headquarters in some cheap pool-room, billiard hall, gambling joint, bootleg joint, or a disreputable club, and sometimes in the home of one of the gang.

Of course, we have also the gangs of youngsters who, while prowling abroad at night are liable to hold up the lone pedestrian or outlying store.

The automobile is a big factor in the commission of many of these crimes, due to the ease in which they can be stolen, the distance that can be covered, the great asset they are in making an escape, the number of confederates that can be carried to and from the crime scene, the amount of loot that can be hidden in it, and if the necessity arises, it can be a regular fortress on wheels.

In most cases, these criminals became acquainted while in prison; made plans to act together when they got out. After such a reunion they stage parties, invite some of their "Molls" with plenty of liquor and cocaine being passed around. Most of the bandits, while not actual "Dope fiends", usually like to "Nibble" at it in some form or another without complete addiction. While under the influence of drugs, that is "Hopped up" with cocaine, heroin, or morphine, there is no limit to what they will attempt to do. A job is quickly arranged for, and an automobile is stolen, they then drive up to some shop previously agreed upon and pull off a holdup.

When we read of these holdups and the apparent ease with which they get away with it, it is surprising that there are not more of them, considering the amount of loot that is taken in this manner. But sooner or later the gang stumbles onto an observant police officer, or a shopkeeper who is prepared for them and one or more of their number is killed or wounded and the rest captured, which ends their operations until another gang gets going.

The most desperate type of bandit is the bank robber or pay-roll robber. He is generally young, well-dressed, likes to make a show with the ladies, spending money on them, visiting cheap dance halls, and often being found in gambling places, especially where they can shoot craps.

The bank robber generally operates in the small towns of the outlying districts where there is not much police protection and few employees in the bank. They plan things in advance, travel in gangs of five or more, go to the place in question in a stolen car, which is kept running. Two of them enter the bank and make some inquiries, then the others follow. At a given signal some of them cover the clerks and those present with revolvers, and the others jump over the counters or partitions and scoop up what money, liberty bonds, and negotiable securities that they can find. In the meantime, the clerks are tied up and herded into some room that can be locked, and they make their getaway - the stolen car being deserted a few miles away, and all getting into another waiting car to throw off pursuit.

Pay-roll robbers, like the bank robber, operate in gangs of five or more, and use stolen cars. They spend much time in planning their stick-ups, and it is surprising the amount of knowledge they have of the methods and amount of money that is being transported through the streets. The details of the crime are carefully rehearsed and every man knows his part of the job. To make it a success, everything must run off smoothly, nothing must be left to chance, and there must be no bungling. They time everything so that at a certain time and place, probably at the entrance to the factory yard, an automobile will suddenly block the way of the oncoming pay car. A gun is stuck in the face of the driver and the custodian of the money, or if there is a guard, he is taken care of. Others will board the car, take the money bag and any arms the crew may have, then make their getaway. Generally, it is done so suddenly that few, if any, get a good description of the men or the cars used. Later on, we find a stolen car abandoned a short distance away, and the crooks have made good their escape.

The following is a typical case of how they operate, this happened a few years ago. There is a large manufacturing plant that made its deposits in a certain bank. On Saturday morning, it was the custom of this conern to draw the money necessary to pay their employess from this bank in bills and currency. They sent a trusted employee and another guard with him to the bank to get the money. This was the routine for years.

In some manner, a certain gang got wind of it. It is supposed that someone working for this firm tipped them off just how the factory was paid off. They immediately started watching the factory for the employee to come out and he was followed through the different streets to the bank; they learned the time he was inside, and his route coming back. They watched this man and checked up on him for several weeks and were satisfied that he was particularly methodical in his manner of going and coming to and from the bank. In the meantime, the gang had gone over the route time and time again to pick out an ideal spot for the holdup. They decided on a quiet street, where there was an alleyway in which they placed a stolen automobile. The alley was in the middle of the block and the remaining members of the gang were lounging in an adjacent doorway. Around the corner 100 yards away was a waiting automobile on a street with a clear road to make a getaway. A member of the gang was posted well down the street to give the signal when the pay car hove in sight. Suddenly the signal was given of the approach of the car, and when it was abreast of the alley the stolen car suddenly shot out directly in front of the on-coming car. The driver put on his brakes to stop and prevent an accident. Before he recovered from his efforts, he was locking into the muzzle of a revolver and the guard and paymaster also. Their weapons were taken away from them, the money bag seized, the doors of the car jammed, and they saw four men running down the street. The crooks disappeared around the nearby corner, and by the time they got out of the car to give chase they were able to state that all they saw was a large black car rapidly disappearing down the street. They were unable to give much of a description of the men, as they were masked, but the driver of the pay car observed the chauffeur of the car that stopped him. He had a cauliflower ear that was impressed upon his memory. They got away, and it looked like another of those unsolved mysteries. But an officer who was listening to the meager description given of the gang, noticed a flat in the Back Bay that was being visited by several young men and one of them had a cauliflower ear. He made inquiries, and the landlady was able to tell him of the wild parties that were being staged in the house, and of certain females that visited there. He became suspicious and started watching for them. He was called in shortly afterwards by the landlady because of a fight that was going on there, and upon entering, he was just in time to save a girl from a severe beating from one of the men. He arrested the man, and in a later conversationwith the girl he learned that there were five of them in the gang, that they had plenty of money, and were blowing of the big job they had just pulled off. This was enough for the officer to immediately ask for help, which was quickly given him. After waiting a few hours, the whole gang showed up and were arrested. They were immediately recognized at headquarters as old offenders and identified by persons who saw them in the vicinity of the holdup just before it happened. The driver of the pay car was, of course, able to partly identify the one with the cauliflower ear. They were all connected with several other holdups of a similar nature in the vicinity of Boston, and they finally confessed to the holdup in question with several others.

It seems that they got away with more than $10,000 in this holdup, but the bulk of it was lost in gambling joints, or spending it on their lady friends in the three days that elapsed before their capture.

This class of criminals consider themselves far above any other class of criminals. They claim it takes a higher degree of daring to hold up a bank or a guarded pay-roll messenger in the broad daylight, than to pick a pocket.

Another class of these bandits which may be either professional or amateurs is the so-called chain store bandit. Included with him, may also be the gas station stick-up man and the ordinary store holdup man.

This class work in twos or threes, and as usual have a stolen automobile. They hold up a store at a time when they figure that the most of the day's receipts are in the till. With chain stores between 6.00 P.M. and 8.00 P.M. is the favorite time, because this is the time when the women are home busy with the family's supper, etc., and also the manager is liable to be alone as he sends his helper to supper at this time. Their method of approach is similar in all stores. They have a waiting automobile nearby with the engine running and the driver ready to pull out on a moment's notice. Two men generally enter the store together and ask for some article. When the proprietor's back is turned, they pull a gun on him and command him to throw up his hands, and he is threatened with dire things if he makes a move. He is then taken to the back room, searched, and tied up, or told not to make a move for ten minutes. One of them has, in the meantime, made a quick search of the place; they usually know where to find the money; and they leave, locking the door behind them, get into the waiting car, and are gone in a few seconds. At gas stations, they usually wait until later in the night when no one is around and approach the station, suddenly holding up the proprietor in the same manner.

Police officers must be thoroughly trained and prepared for these classes of desperate criminals. From his own knowledge, he should know the danger spots on his route, and also the adjacent routes. In case of chain stores, it is rarely that he has more than two or three of them on his route and usually they are in the same locality, on a main street, so that it is possible for him to keep his eye on all of them at the same time. Then again, he should know the time that other stores close on his route and if they are liable to have large sums of money on the premises, and watch out for them also.

He should be especially careful and suspicious of those cases where he sees an automobile standing just around the corner on a side street, with the engine running, and the driver acting as though he was waiting for someone who would be coming in a hurry. He should pay attention to descriptions given, and make every effort to know by sight any criminals who would be liable to be concerned in a holdup.

Whenever he learns that a factory, shop, construction concern, etc., is in the habit of paying off their help on certain days, after the arrival of the pay-car, he should make it his business to be in the immediate vicinity at the time of such arrival, to render help and assistance in case of a holdup.

Chapter Twenty-Two

AUTOMOBILE THIEVES: MODUS OPERANDI

The stealing of automobiles and the part that stolen automobiles play in the commission of crime is a matter of grave concern in every up-to-date police department. There is hardly a crime of violence, larceny of property, etc., that the automobile is not intimately connected with it, either as a means of transportation to or from the crime scene, or as is more often the case, the larceny of the machine itself.

So much is this so, that it is an assured fact that the gunman or crook has his automobile always within hailing distance, for the following reasons: It provides a ready means of escape; it is a handy vehicle for carrying confederates and proceeds of the crime; in times of danger it can be used almost like a fortress on wheels; it brings the out-of-town places within easy distance when new scenes are required for the commission of crime; it is easy to try the speed of the pursuing car and if necessary to abandon it and steal another. It is taken for a sign of respectability in most localities.

In the United States annually there are over 100,000 cars stolen, and in Boston alone, we provide annually 5,000 cars to this amount. Of this great total, the greater part is finally recovered, but seldom in the condition it was stolen.

Automobile thieves may be divided into four classes, namely: Those that steal a car to commit a crime: Those that steal a car to sell it for a profit: Those that steal a car to strip it of all accessories: Those that steal a car for a joy ride or transportation.

All these classes of thieves are greatly facilitated in their stealing of automobiles by the ease in which they may be operated; the ease in which they can be disguised, and registration plates changed; the loss of time or the failure of the owner to report the stealing of the car; the difficulty in getting the owner to be able to identify his car if it is stolen; the lack of knowledge on the part of policemen and citizens as to the different makes, styles, distinguishing marks, etc., of cars.

In a recent investigation by a certain police force, it was definitely proven that almost one-half of the cars parked in the streets of this city were left unlocked. The same carelessness applied to high-priced cars in the streets as well as the low-priced ones. Where everything is wide open, anyone may enter and drive off a car.

To be sure, it is a bit of a bother to see that a car is protected from theft every time one leaves it at a curb. In the course of a year, the careful owner may spend several hours doing this sort of thing, and he may think the time has been wasted. What he does not know is the number of times a would be thief has come along and admired his car only to pass it up in favor of the next one, which was unlocked. Possibly it paid the careful owner for his trouble.

An unlocked car is an open invitation to the thief. Locking cars will not prevent the professional crook who is equipped with false keys from plying his trade if he likes that particular car and has an opportunity to make off with it unmolested. Locking the car is nevertheless excellent insurance. If practiced by every owner, it would greatly diminish the amount of car stealing, and give the police more time to recover the cars that still continue to be stolen in spite of all precautions. So all officers should be on the alert on their routes in advising owners to leave their cars locked when entering places in which their cars are sure to be out of their sight or control.

Commercial thieves, are usually ex-convicts and hardened criminals who make a business of stealing cars, disguising them, and selling them for a profit. He generally works from some cheap garage where after stealing the car, he can change the engine numbers so as to coincide with a registration he has already gotten from the Registrar of Motor Vehicles, and he then assumes ownership of the car.

The thief who steals a car to commit a crime or some other unlawful act, after stealing the car, will commence to destroy the identity of it. He will, as soon as possible, change the number plates, disarrange the extra tires, and lights, etc. He will then go to the scene of the crime and after committing the act, he will abandon it at some out-of-the-way place, meeting his confederates with another car, into which he then transfers the loot and his accomplices, leaving the stolen car to be found by the police or the indignant owner.

The stripper steals the car for the sole object of taking everything of value on or in it. He either divests the car of spare tires, motor meters, spot lights, and tools as it stands on the street or drives it to some secluded spot and strips it of every article of value. He does not care to steal cars to sell, because of the likelihood of their being identified, but in the case of accessories, there are no distinguishing marks, and he thinks he is practically safe in taking them.

The so-called "Joy riders" or those that take a car for transportation, are usually kids, dope fiends, rough necks, and members of youthful gangs that just take a car for a ride around the city or to attend a dance in a neighboring city to show off, etc. They seldom do more damage to the machine than the lack of water, oil, and gas will cause. When they are through with the car they leave it at any convenient place, and the vigilance of the police in finding it early will decide whether or not it will be stripped by others, or in a fair condition for the owner to receive it. These are by far the most numerous kind of automobile takers we have to deal with today.

When you have reason to suspect that a car may be stolen, stop the car, and demand the registration and license to operate from the operator. Compare the registration number with that of the automobile. Look to the engine number and see if it is the same as on the registration, or if it has been filed or altered in any manner. Remember that motor or serial numbers are always stamped either on small metal plates or into the motor. Do not get a casting number mixed up with the motor number. A motor number is never cast, it is always stamped into the motor. If you are not satisfied, arrest him, and don't let him talk you out of it.

You will find motor numbers located on the different autos as follows:

Hudson - Left front motor leg
Essex - Left side of the motor
Ford - Cylinder Block, left side
Dodge - Left side of the motor
Buick - Crank case, left side lower left corner

Some models have them in different places, but these locations will be found by standing in front of the car and looking straight at it.

As automobiles are almost always an element in the commission of crime, every live officer must have a thorough knowledge of automobiles, their different styles, designs, and peculiarities. All officers should be able to tell the make of a car by a rear or front view of it, or even by looking at the wheels. There is no opportunity to show your powers of observation more than in naming the different cars that pass over your route as they approach or have passed by you. You can gain this very necessary knowledge by looking over the cars parked on your route, by conversations with chauffeurs, garage owners, and automobile mechanics. You should be able to distinguish from each other, limousines, sedans, coupes, phaetons, roadsters, touring cars, and any other style or design that may come out from time to time.

When a car is read off at roll call or you get it over the telephone, be sure and get an accurate description of it and all the accessories it contains. Then be especially observant for this make and design of car passing over your route. Go to all garages, restaurants, lunchrooms, poolrooms, or other suspected places, and carefully look over the cars parked in their vicinity. Side streets, out-of-the-way alleys, fields, sheds, etc., have often been used for the purpose of abandoning cars. In case of stolen cars, dense woods, old barns, unused buildings of all sorts, and unsavory garages are the most likely places they may be hidden. There have been cases where a large van drove up to a parked automobile and hauled the car aboard and then carried it off. So also be suspicious of unknown repair cars that are hauling an apparently broken down car to some shop, as this is sometimes used as a means of stealing a car. Never leave your route after a tour of duty without feeling sure that no such car is parked or deserted on your route, as this is a sign of negligence or lack of observation on your part and might result in charges being preferred against you.

Your principal source of information and capture of automobile thieves will be in cheap restaurants, poolrooms, etc., resorted to by chauffeurs and thieves; unprincipled second hand dealers, shady garages, open air garages, and finally in junk shops. Owners desiring to get money for their cars will sometimes bring it to junkshop keepers and sell them for junk. Then they report the car stolen to the police, after they are sure the car is broken up, then they will apply to the insurance company for all the insurance money they can get on the car. In the same manner, they will let a car go off a steep cliff into a deep pool of water and claim the insurance.

While automobile stealing is happening too often at the present date for any police department to try and gloss over it and pass it up as nothing of importance, yet it is well to remember that many of the cars are being disposed of as described above.

The business of stealing cars will always flourish as long as motors and their serial numbers can be altered, as long as motorists forget to lock their cars, as long as applications for registration, bills of sale, and transfers of ownership can be forged, and as long as people will buy cars without inquiring into the previous ownership of the car.

Thieves will continue to select plunder from among those cars that are left unlocked, and often from those that are locked, and they will sell their booty to those who do not know what difficulties they will encounter, or who do not care what will happen when they buy such stuff.

THEFT OF MOTOR VEHICLES, GENERAL LAWS

Chapter 266, Section 27a. Whoever, with intent to defraud the insurer, removes or conceals an automobile belonging to himself or another which is also insured against theft, or whoever, with intent to as aforesaid, aids or abets in such removal or concealment, shall be punished by imprisonment in the States Prison for not more than 5 years, or Jail or House of Correction for not less than 1 year.

Section 28. Whoever steals an automobile or motor cycle, or receives or buys an automobile or motor cycle knowing the same to have been stolen, or conceals any automobile or motor cycle knowing the same to have been stolen, or takes an automobile or motor cycle without authority of the owner and steals any of its parts or accessories, or without authority of the owner operates an automobile or motor cycle after his right to operate has been suspended or revoked, or his right to operate without a license has been suspended or revoked and prior to the restoration of such license or right to operate or to the issuance to him of a new license to operate shall be punished by imprisonment up to 10 years, State Prison, or Jail or House of Correction not over 2½ years.

Section 139. Whoever removes, defaces, alters, changes, destroys, obliterates, or mutilates, or causes to be removed or destroyed, or in any way defaced, altered, changed, obliterated or mutilated, the serial number of a motor vehicle or of the engine number of a motor vehicle, with intent thereby to conceal the identity of such motor vehicle, shall be punished by a fine of up to $500 or imprisonment not over one year, or both; and possession of a motor vehicle or any part thereof, the serial number of which has been removed, defaced, altered, etc., shall be prima facie evidence of a violation of this foregoing provision. Whoever sells or otherwise disposes or attempts to dispose of or sell, knowing or having reason to believe that the serial number of said motor vehicle or of the engine thereof has been removed, defaced, altered, etc., shall be punished as above.

Section 82. Whoever, with fraudulent intent to place personal property which is subject to a mortgage beyond the control of the mortgagee, removes or conceals or aids or abets in removing or concealing the same, and a mortgagor of such property who assents to such removal or concealment, or whoever shall use rented, leased, or mortgaged personal property as a container or implement of sale of intoxicating liquor contrary to law, shall be punished by a fine or not more than one year's imprisonment.

The following new city ordinance was passed and took effect December 8, 1931.

Chapter 39 R.O. Section 13A. No person shall place upon public or private land automobiles or automobile parts for the purpose of abandonment. Penalty for violation of this section not exceeding $50 for each offence.

Chapter Twenty-Three

FENCES OR RECEIVERS: MODUS OPERANDI

We have discussed the various types of thieves and their methods of operation in the foregoing pages. As all classes of larceny are committed for gain, it stands to reason that the thief must have some method of quick disposal of his loot when it is not in actual cash. The person who so deals with the thief is called a "Fence" or a "Receiver" and in all our talks on larceny or thievery of any kind the "Fence" or "Receiver" must be classed with the thief.

A "Fence" is in plain words a dealer in stolen goods. Through the "Fence" the thief disposes of his stolen diamonds, furs, laces, watches, jewelry, and other merchandise.

This class of criminal usually works in the background, rarely doing business with more than one person. They work through a third person, usually a criminal who employs the others. The "Fence" in many cases plans the crime, finances the criminals if necessary, buys their loot, pays cash for it, and keeps no records. He removes identification marks, repacks the goods, and sells them at greatly reduced prices, causing unfair competition with the honest dealer.

He is the real foundation of such crimes as larceny or burglary, where merchandise is stolen. Without the "Fence" the thief would have much difficulty in operating. They undermine the fabric of commercial honesty, placing temptation in the way of youth, and constantly incite others to lead a life of crime. He is the real backer and master mind of the criminal. They not only receive the proceeds of robberies, burglaries, thefts, etc., but also goods where fraudulently obtained by concealment, fraudulent bankruptcies or under the cover of a fake burglary or larceny.

If the thief had no method of quick disposal of his loot, there would be less crime. The thief, burglar, or robber, the swindler, or dishonest tradesman all rely on the "Fence" to convert their stolen goods into cash. The hundreds of millions of dollars lost yearly through these criminal activities may be charged directly to them.

Many business men deal almost entirely in stolen goods, especially when they pay not over one-tenth of its actual value for it. As one of these dealers said, "It is not my business to ask where they get their stuff," in talking to a police inspector, "They offer it at bargain prices. I buy it. If I stopped to question these men where they got the goods, I would be doing nothing but police work."

Common sense would tell this type of business man that he is dealing with a crook and down in his heart he knows it, but he gets away with it for a while and thinks he is "Buffaloing" the police.

There are all kinds of persons who make a business of dealing with thieves. Pawnbrokers, second hand dealers, junk dealers, garage men, furriers, small department stores, etc. That is, they buy stolen property. Often apparently respectable business men will take a chance on a load of "Hot Stuff" where the price is ridiculously low and common sense will tell them that it is stolen.

There are legitimate and conscientious pawnbrokers, second hand dealers, and junk dealers, who will have nothing to do with this type of business, but the majority of them have the reputation of handling "Hot Stuff", and they seldom refuse to buy from known thieves.

Professional criminals always know just where to get rid of the particular class of loot they have to sell. They do not like to do business with "Fences" unless they know him and are satisfied he will not squeal, the "Fence", of course, is equally as careful in doing business with the criminal.

The news is passed around that such and such a pawnshop, second hand shop, or department store will buy stolen goods. The crook who has something to sell immediately gets an introduction through another crook to these people. Once he has been assured that his loot will be bought, he is liable to pull off a job anywhere in the city or even right in the vicinity of the place he intends to sell the loot.

For cheap goods called "Junk" by the criminal, he likes to do business with the foreigner, as he is usually tight lipped and discreet, and disposes the goods to members of his own race, who also "No savvy English" when questioned about them. However, it is safe to say that 75 per cent of all stolen property, of which jewelry, watches, clocks, bric-a-brac, etc., constitute the bulk of the loot, are sold to pawnbrokers and second hand dealers.

In Boston, the pawnshop keeper and the second hand dealer is bound by law to make a report every morning before 10.00 A.M. to the division commander upon which he is doing business, of all goods received by him for the preceding 24 hours. Often stolen goods are not reported, and he has no record of receiving it, or again the description given is deceptive and the goods are not found.

It is a difficult matter to convict the "Fence" of receiving stolen goods. He is licensed to buy and sell or receive in pawn certain articles. It is difficult to prove he knew the articles were stolen. He generally does business with one person, so that there can be no corroboration. He generally has a good reputation in the neighborhood, it is his business to deal in goods of this kind, and the jury will not believe a thief against him.

Then again, it is difficult to identify the goods stolen. The trade marks have been removed and others replaced. They are packed up differently. If it is jewelry, the stones have been removed and reset, possibly the gold melted down and other methods used to disguise the goods. The dealer is always ready to show fake receipts for the money paid for the goods, which make it appear that he thought he was dealing legitimately.

The only hope we have in handling cases of this kind is in a strict cooperation of business associations, the police, and the District Attorney; having in mind the object of indicting those in whose possession stolen property is found, and there is a presumption that they knew it was stolen. This may or may not result in a conviction, but if this class of criminal is sure of some criminal action against him, it will tend to dishearten him, because of the worry and expense he will be put to.

G.L. Chapter 266 Section 60. Whoever buys, receives, or aids in the concealment of stolen or embezzled property, knowing it to have been stolen or embezzled, or whoever with intent to defraud, buys, receives, or aids in the concealment of property, knowing it to have been obtained from a person by false pretences of carrying on business and dealing in the ordinary course of trade, shall be punished by imprisonment in the State Prison for not more than 5 years, or by a fine of not more than $500, and imprisonment in jail for 2 years.

Evidence necessary to convict for receiving stolen goods:

(1) That the property was stolen.

(2) That the receiver knew them to be stolen.

(3) That he bought, received, or concealed them with a felonious intent.

How to establish the necessary evidence in court:

(1) Have the complainant establish proof of the theft, and identify the recovered property.

(2) If the complainant was unknown, circumstances that would show that it was stolen property or trace it to its rightful owner.

(3) The receiver's admission of purchase without reasonable inquiry as to the proper owner would be presumptive guilty knowledge. But this may be rebutted. So you must establish guilty knowledge or intent in this case by:

The order copy:

(1) His inability to produce one, or the fact it was made on a fictitious concern.

(2) If ordered by telephone, by tracing the call number given, and proving it fictitious, or.

(3) If ordered from a salesman, his inability to establish his identity.

Absence of reasonable inquiry:

(1) By seizing and marking book entry, and,

(2) Corroboration that concern named was fictitious.

Circumstances concerning the finding:

(1) Property concealed or covered up.

(2) Identification marks removed.

(3) Evasive answers by the receiver.

(4) That a ridiculously low price was paid by the receiver.

(5) That the property was sold at a ridiculously low price.

(6) By a search and finding of some of the original markings on the premises.

Unusual storage -- such as finding furs, silks, jewelry, in a candy store or a restaurant, etc.

A thorough search for the thief by any clues available with a view to using his testimony against the receiver.

The property should be seized, marked, tagged, and secured in the presence of witnesses.

Note should be made of all facts, circumstances, and statements and corroboration had thereof.

Chapter Twenty-Four

ARSONISTS: MODUS OPERANDI

Generally speaking, arson is the crime of wilfully and maliciously burning the dwelling house of another. But in Massachusetts, we have made most every kind of a burning where there is property loss, or an intent to defraud a felonious burning.

Men usually set fire to property for one of the following reasons:

For gain or reward
For revenge
Spite or ill feeling
Hide a crime
Or the work of a pyromaniac

The first reason covers at least 90% of such burnings and is usually to defraud the insurer or for the reward paid by the owner to some person to burn such property.

Many people desiring to get some "Easy Money" arrange to have their houses or places of business burned. Of course, they take care to have the house and furniture or building and its contents fully covered by insurance. They then remove some of the most valuable pieces of the furniture or merchandise before the building is set on fire, with the object of having these articles fully paid for by the insurance.

Criminals who make a practice of professional burnings are called "Torches", and they hire themselves out to people who want their buildings burned. They generally collect 1/4 of the insurance if the burning is a success.

The usual method of burning a building is the so-called candle method. A candle is lighted and placed near some oil-soaked paper or other highly combustible material in such a way that when the candle burns low, it will ignite the paper, etc. This in turn, burns to some convenient container filled with gasoline, benzine, kerosene, or other inflammable material. When this stuff is reached by the flame (for example, a pig's bladder filled with gasoline) there is usually an explosion and the inflammable material is thrown all over the room, which instantly causes a fire in various parts of the room and quickly spreads to other parts of the building.

The person who sets the fire figures that a candle will burn so much in an hour, usually about one inch, and allows himself plenty of time to be in some other place at the time of the fire, thereby establishing an alibi. In the meantime, he has fixed all the windows and drafts, so that plenty of air is sweeping through the building, placing oily rags and other combustibles in the walls, garrets, closets, etc., so that there will be a quick and decisive burning within a short time after the starting of the fire.

Where kerosene, gasoline, benzine, and turpentine were formerly used by the arsonist in the past, the modern "Torch" often employs some other form of highly inflammable material. In many cases, he resorts to chemicals and explosives, and he shows a knowledge of these articles that is surprising. In such cases, the burning and destruction of the building is so rapid and complete that often every sign of incendiarism or a criminal burning is obliterated, making it almost impossible to detect the crime.

In some cases, a building is burned to hide the commission of a crime. The murderer, in order to prevent his act being discovered, may set fire to a building to destroy the body or make it unrecognizable, and at the same time destroy other evidence. The burglar or thieving cashier or employee often set fire to buildings to destroy books, incriminating papers, and other evidence of their crooked dealings. The unscrupulous business partner may burn a store or other place of business to hide the carrying away or disposal of certain valuable merchandise without the knowledge of his partner, or to cover up certain shortages or defalcations on his part.

The person who burns the property of another for revenge, spite, or ill feeling is usually actuated by some real or fancied wrong in committing his crime. He generally fails to make the elaborate preparations made by the professional burner or one who is actuated by the desire to defraud or receive pecuniary compensation.

A pyromaniac or "Fire bug" is just a person suffering from an insane desire to set fire to buildings without any particular motive. Something akin to the kleptomaniac, who will steal something, usually valueless to him, the pyromaniac will burn a building without any pretense of profit to himself and always without a motive, unless it is to see fire engines approaching, or the glare of the fire. However, there are comparatively few pyromaniacs.

To sum up:

The arsonist burns a building to collect the insurance.

"Torches" or professional burners do this work for a fee or a reward.

Others, who are mentally aberrated, will do the same thing for revenge or spite. But the pyromaniac has no motive.

The arsonist is usually a very crafty criminal who takes considerable time and care in preparation for a burning. He is a cold, deliberate and usually a perverted criminal. His crime is never committed in the heat of a passion and an accident can never be blamed for arson. The criminal who sets fire to a building no matter what is the motive, is possessed with a felonious and dangerous complex and should be punished accordingly.

Generally the intent and motive of the arsonist is inferred from the commission of the act, on the ground that all persons are presumed to intend their voluntary acts, and the natural and probable consequence of such acts.

The following is a course of procedure for the officer to follow in the investigation of arsonic burnings or simulated burglaries, where it is suspected that it was done with the intent to defraud the insurer of the building or stock.

The motive in these cases is one of gain or desire to conceal pilfering or fraudulent insolvent conditions. The method of procedure should cover:

(a) Investigation into the technique employed by the perpetrator in the commission of the crime; the tools, implements, substances, or liquids used; plans laid out for the commission of the crime, the approach to the premises or the approach within the premises to the machinations of the crime itself, the tale of the subject; the time during which the crime happened; whether a vehicle was used; whether there was any peculiarity shown in the technique employed, whether one or more persons were necessary to perpetrate the crime.

(b) Investigation into the corpus delecti, the subject matter of the crime itself, and the circumstances and conditions of the crime from start to finish.

(c) Technique of the police officer or detective employed in the solution of the crime.

Phases of investigation would include, among others the following:

Has the subject had a similar experience in the past? If so, what was the result?

Cooperation with the Chief Fire Marshal in all cases of suspected incendiarism.

Police photographer to make photographs if necessary.

Chemical or micro analysis of suspected tools, substances or liquids as may be necessary.

Tracing and identification of purchases of materials, liquids, or implements used in the commission of the crime.

Check movements of the subject before and after the reported crime.

Determine who visited the premises during the business hours and after business hours for several days preceding the reported crime.

Has the subject made all the purchases which he alleges, and to which he swore as having made in his proof of loss and claim for insurance?

Was the merchandise which the subject purchased delivered to the subject's place of business?

Has the subject disposed of such merchandise prior to the reported crime?

Has the subject transferred any of the purchases from his place of business prior to the reported crime?

Was the merchandise of sound value as recorded on the invoice?

Have any of the sales been made without the sales being recorded in the subject's books of account?

Are any invoices missing from the subject's sales books?

Have the books of account or any other concern in which the subject is interested been used for the supposed disposition of merchandise?

Are the items on invoices a genuine description of the merchandise sold?

Have sales of merchandise taken place at a location different than the subject's place of business?

What means of trucking or cartage was used in all sales?

Has the subject given any person to whom he sold merchandise a new bill or invoice?

Transactions involving sales or receipts of cash payment may not be recorded in any of the subject's books of account and the money received may not be deposited in a business bank account of the subject.

Checks received may be endorsed by the subject and cashed over the counter or deposited in the bank account of an employee, business, or relation, or in any concern in which he is interested, or in a hidden personal account.

Analysis should be made of books and records of the subject and any other concern he controls or with which he is connected and audit made of transactions appearing and those failing to appear on the books without regard as to whether the books are or are not in balance.

Get all the facts behind the entries and beyond them.

Chapter Twenty-Five

PROSTITUTION

The proper control of prostitution has been in a process of experimentation for years with a view of its total elimination or proper regulation. With all these years of experimentation, no system has yet been devised that will eliminate it entirely.

Some large cities have compromised to a restraint by license which confines it to certain localities in such city. This is really a surrender to vice under the authority of law. Restraint by segregation is a compromise with vice illegally made, a nullification of laws by public officers appointed to enforce them.

There have been all kinds of laws made prohibiting it, but as long as human passions remain the same as they are today, it will always exist in some form or manner.

Boston has gone through the old segregation idea many years ago, and has driven that kind of prostitution out of our city. Today we have the spasmodic "House of ill fame" that may appear in most any part of the city, which usually caters to a select class of customers, but never the open solicitation that was rampant in the old days. These places are conducted very carefully and often exist for months without the knowledge of the police. Generally the first complaint comes from a neighbor who has been disturbed by a rather noisy party next door. Upon investigation, you will find that the house is in charge of a very respectable appearing person, who is very indignant at the complaint of the neighbors, when all that happened was a little birthday party for one of her girl boarders.

Usually your suspicions will be aroused in some manner and as you continue to watch this house, you will notice that automobiles stop a certain distance from the house and that the occupants then proceed to the house in question and are readily admitted. Immediately there seems to be a general good time in progress, which while innocent enough in itself, will warrant you in getting to some place where you may satisfy yourself just what is going on. If it is as you suspect, a house of ill fame, your duties are practically the same as in getting evidence in a liquor case, or a gambling nuisance. You must watch the house, notice everything that is going on and place such information in your note book with time and date in your pocket manual for future reference. Immediagely notify your sergeant or commanding officer of what you have observed.

Sometimes, but rarely now, you will find a house in the cheaper locality where the women openly solicit their trade from the windows or doorways. You are bound to notice this class of house right away as the neighbors will complain of them or you will find them yourself without much trouble. This class of house cannot exist without you knowing it, and it is a sure sign of your inefficiency or your connivance with them, if such a place exists for any length of time on your route.

If you are detailed on this class of work, you will find that there is no kind of vice that requires a more ready wit, a knowledge of the tricks of the trade, than in dealing with women of this sort. You must find out who the patrons are, who the girls are, and their names, the pass word, if any, and above all the name of the proprietor, and to be able to recognize her.

You must watch the persons entering, the time they remain in the house, their condition, whether drunk or sober, whether they came afoot, or in an automobile, or a taxi. If possible, when you gain enough knowledge of how an entrance can be obtained, have some outside division officer detailed to help you on the case. Have him telephone the house and make the date, or approach the house as the case may be, to enter. It is well to pick an officer who is somewhat of an entertainer (a piano player or a singer) give him some marked money, being careful that he hides his badge in some place where it will not be felt or found. It is better for two men to enter together and engage the women in conversation, both listening to all that is said.

Be sure and get the "Madam" into conversation, if possible, and make your bargains within her hearing, as this is important evidence against her. It might be possible to buy liquor from the "Madam" and if a sale is made arrest her for a violation of the liquor law, and if your evidence permits, apply for a warrant also for "Keeping a House of Ill Fame". Remember that the police should be able to tell all that happens inside the house while they were there, and what the "Madam" said, etc. As soon as a bargain is made, the officers should make some excuse and immediately leave the house, making notes of it in their manuals.

It should be especially impressed upon the police that they are compelled by law and police regulations to keep within the bounds of law and morals; they are allowed to enter suspected places as police officers with search warrants, or individually, under orders, to observe and report, but on no account to take part in an immoral act, or so place themselves as to be open to a charge of immorality.

When getting evidence:

(1) Do not have women expose their persons in your presence.

(2) Do not go into a bedroom with a woman.

(3) Do not bring a woman from the street into a house for the purpose of getting evidence.

(4) Always try to find out who is the proprietor or owner of the house in question.

If a search warrant has been obtained by a sergeant or other experienced officer, he should go to the house with the necessary assistance, and pick a time when he may be able to find one or more couples in an act of fornication, demand admittance, and if it is refused, break the doors, and make his search. Here again, the sergeant should have one of the officers listening to all that is said between himself and the "Madam" or proprietor, and all the officers should be able to testify to such conversations or conditions as they found them. He should arrest those engaged in acts of fornication. The women should be arrested and charged with being "Idle and Disorderly", and the proprietor complained of for "Keeping and Maintaining a Common Nuisance".

The place just described, may be a regular "House of Ill Fame" or as is often the case, a "Telephone House", that is, a house where there are no regular girls present, but on receiving a call by telephone or otherwise, the proprietor immediately telephones and has the necessary girls present upon the arrival of the men. For police purposes, there is no difference between the two, as the same method of procedure will have to be gone through with in each case for a conviction.

The "Street Walker" is the most common type that you will have to deal with today. She is to be found most any place where men are passing and in cheap cafes, restaurants, and hotels. Her method is to approach the man she selects as her victim, make some motion or look indicating a desire to become acquainted. She is very wary, at first, to make sure that the man is not a police officer, but as soon as she is satisfied that he is not an officer, she makes her proposition, and if he agrees, she generally leads him to some nearby cheap hotel or rooming house.

In investigating cases of this kind, take notice of any girl that seems anxious to become acquainted with strange men. Notice where she goes, how long she remains in such place, if they entered and came out together, and if she then approaches other men.

The method of procedure is the same in practically all of these cases. Make notes, the date, time, place, etc., being sure to make your entries at that time. Watch the woman for several nights, noting how she approaches the men, if in civilian clothes have her get in conversation with you, and find out whether or not she is soliciting. Notice where she brings the men, a hotel or a rooming house, find out if they register as man and wife, and the name they register under. It is a good idea to warn the woman away after you are sure of what she is doing. If she is then found again, doing the same thing on your route or division, watch her pick up a man, then stop them, separate them, and ask the man what she wanted of him; usually he will admit the truth, and you will be justified in presenting it in evidence provided he repeats the story in her presence. Be very careful about accusing women in these cases, as every woman with a painted face is not a prostitute.

All prostitutes have what is called in the underworld, "Pimps"; men who live off the earnings of these fast women and act as their protectors, pay their fines, provide lawyers if they are arrested, and warn them of the police. Often they work with the women what is called the "Badger Game", i.e., the woman will pick up a man under unusual circumstances and pose as a married woman whose husband is away. After an evening at the theatre, or out to some cabaret show, she will consent to his coming to her room or apartment for dinner. At an opportune time or moment a man will suddenly open the front door, rush into the room where they are, and catch the man and the woman in an embarrassing position, pose as the woman's husband, threaten the man with arrest, or even death. To settle the affair the "Sucker" pays all the money he has on his person, and often is blackmailed for more. Another method of operation is to have the man, when he is in the room with the woman, to place his clothes in a convenient chair or other place. While he is interested in other things, her P.I. will open a convenient slide in the wall or panel in the door, and search his clothes, taking anything of value that he may find. So wherever you find the prostitute plying her trade, you will also find her "Pimp" close by. If it is possible, make life as miserable as you can, being consistent with the law, for this type of man.

The resorts of the prostitutes are the resorts of other classes of criminals, dope fiends, dope pedlars, robbers, holdup men, thieves, and the like. Her friends are of a necessity members of the underworld. She is a menace to the community just from the coterie that follow her along with her well known capacity of communicating disease.

There has been considerable talk and thought on the theory that a large number of these women have been taken from happy homes and sold into or forced to live a life of shame. In Boston, there is no ground for even a reasonable suspicion that women or girls are forced into an immoral life, or compelled to remain in it under physical coercion or restraint. If such a case were known to the police, the victim would be released at once, and the keepers arrested. A person who knew of such a case and failed to inform the police, would be as black a criminal as the criminals themselves; and a person who pretended to such knowledge without possessing it, might fairly be set down as an irresponsible person and gossip. Single cases arise from time to time, in which it appears that a woman is induced to lead an immoral life by the threats of a depraved husband or lover; but rarely in such cases, is it her first experience in mercenary immorality, and release from the life is open to her any time she chooses to leave and give up the man.

In Boston, a great majority of the cases of prostitution are carried on by women and girls who do not depend upon it exclusively for a living, and do not live apart for that purpose. A city like Boston attracts many loose or unfortunate women and girls who come to it from other places of their own free will, and if they pursue an immoral life here, it is not because they are forced to do it by men or by other women, but because they are vicious or eager to spend more than they can honestly earn, or in a more favorable aspect to them, are drawn to it through their necessities. It is not of much use, however, to expend sympathy upon a woman or a girl who is too proud to ask assistance from one of the scores of private benevolent organizations which abound in Boston, but is not too proud to solicit strange men in the streets, or to sell the little virtue that she ever had to chance acquaintances.

An efficient police force will drive all forms of prostitution from the residential districts, and reduce it to a minimum in the other parts of the city. This has been the aim of the Boston police for years, and it can safely be said that this city has a reputation for its perpetual crusade against this form of vice that it can be justly proud of.

The following are a few of the laws governing prostitution and illicit sexual intercourse:

Chapter 272. G.L.

Section 1. Whoever fraudulently and deceitfully entices or takes away an unmarried female under 16 years of age from her father's house or elsewhere, without the consent of her parents or guardian, if any, under whose care or custody she is living, for the purpose of effecting a clandestine marriage. 1 year, $1000 fine.

Section 2. Whoever fraudulenty and deceitfully entices or takes away a woman or girl from her father's house or elsewhere, for the purpose of prostitution or unlawful sexual intercourse, and whoever aids or assists in such abduction for such purpose. S.P. N.O. 3 yrs. or Jail 1 year, or a fine of $1000 or both.

Section 3. Whoever applies, administers to or causes to be taken by a woman or girl any drug, matter, or thing with intent to stupefy or overpower her so as thereby to enable any person to have unlawful sexual intercourse with her. S.P. N.O. 3 years, or N.O. 2½ years, H.C. or jail, or fine of not over $1000 or both.

Section 4. Whoever induces any person under 18 years, of chaste life, to have unlawful sexual intercourse, shall be punished as in the preceding section.

Section 5. Whoever has unlawful sexual intercourse with a female who is feebleminded, an idiot, or imbecile, under circumstances which do not constitute rape, shall, if he had reasonable cause to believe such female to be so afflicted, be punished as in section 3.

Section 6. Whoever, being the owner of a place or having or assisting in the management or control thereof, induces or knowingly permits or suffers a female to resort to or be in such place for the purpose of unlawful sexual intercourse, shall be punished as in section 3.

Section 7. Whoever, knowing a female to be a prostitute, shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of her prostitution, from moneys loaned, advanced to, or charged against her by any keeper or manager or inmate of a house or other place of prostitution, or shall share in such earnings or proceeds, shall be punished as in section 3.

Section 8. Whoever shall solicit or receive compensation for soliciting for a prostitute, N.O. 1 year, H.C. or N.O. $500 fine or both.

Section 9. District courts are authorized to issue search warrants, if cause be shown, to authorize officers to enter any place where women are kept for prostitution, and if any are found to take them into custody.

Section 10. Nothing in the preceding section shall prevent the arrest and detention without a warrant of any person who, the officer serving the warrant may have reasonable cause to believe, is violating any provision of this chapter, or is keeping a house, room, or place resorted to for prostitution or lewdness, and said officer may, upon such search warrant, without a warrant, arrest any such persons, and detain them until a complaint may be made against him.

Section 11. A person shall not be convicted under sections 2 to 6, upon the evidence of one witness only, unless his testimony is corroborated in a material manner. Prosecutions for a violation shall not be commenced more than one year after the commission of said crime.

Section 12. Whoever knowingly procures, entices, sends, or so aids a woman or girl to practice prostitution, or to enter as an inmate or a servant, a house of ill fame or other place resorted to for prostitution, whether within or without the commonwealth, $100 to $500 fine, or 3 months to 2 years, H.C. This law applies to keepers of intelligence offices and employment offices, if the character of the place could have been ascertained by reasonable inquiry. Fine $50 to $200.

Section 13. Whoever, for any length of time, unlawfully detains in a house of ill fame or any place where prostitution is practiced, any female, or attempts, aids, or abets in so doing, or provides or administers or aids or abets in so doing any liquor, drug, etc., for the purpose of such detention. S. P. 5 yrs. H.C. 1 to 2 1/2 yrs. or $100 to $500 fine.

Section 14. Adultery is the voluntary sexual intercourse between a married person and a person not husband or wife. Sexual intercourse between an unmarried man and a married woman is adultery for both. Sexual intercourse between an unmarried woman and a married man is adultery for the man and fornication for the woman. S.P. N.O. 3 years. Jail 2 years, or a fine of $500.

Section 15. Whoever, having a former husband or wife living, marries another person, or continues to cohabit with a second husband or wife in this commonwealth whall be guilty of polygamy. S.P. 5 years, or 2½ years, jail or H.C. or $500 fine. This shall not apply to a person whose husband or wife has continuously remained beyond the seas, or has left the other for seven consecutive years, nor to a legally divorced person after 2 years.

Section 16. A man and a woman who, not being married to each other, lewdly and lasciviously associate, and cohabit together, or a man or woman, married or unmarried, who is guilty of open and gross lewdness, and lascivious behavior. S.P. 3 years, jail N.O. 2 years, or fine of N.O. $300.

Section 17. Persons within the degree of consanguinity within which marriages are prohibited or declared to be incestuous or void by law, intermarry or have sexual intercourse with each other, shall be punished by imprisonment in S.P. N.O. 20 years, jail N.O. 2½ years.

Section 18. Whoever commits fornication (sexual intercourse between a single man and a single woman) shall be punished by imprisonment N.O. 3 months or fine of $30.

Section 24. Whoever keeps a house of ill fame which is resorted to for prostitution and lewdness shall be punished by imprisonment for not more than 2 years. H.C. or, jail.

Section 25. Any person owning, managing, or controlling a cafe, restaurant, saloon, or other place in any town, where food or drink is sold to the public to be consumed upon the premises, and any employee of such person who provides, maintains, uses, or permits the use of a booth, stall, or enclosure of any description whatever, which is so closed by curtains, screens, or other devices that persons within cannot at any time plainly be seen by other persons in such cafe, restaurant, saloon, or other place, or in any division thereof unless the enclosure is approved by the licensing authorities, shall be punished by a fine of not less than $50 nor more than $500, or by imprisonment for not more than 6 months or both.

Section 26. Whoever, for the purpose of immoral solicitation or immoral bargaining, shall resort to any cafe, restaurant, saloon, or other place where food or drink is sold or served to be consumed upon the premises, and whoever shall resort to any such place for the purpose of, in any manner, inducing another person to engage in immoral conduct, and whoever, being in or about any such place, shall engage in any such acts, shall be punished by a fine of not less than $25 nor more than $500, or by imprisonment for not more than one year, or both.

Chapter Twenty-Six

NARCOTIC DRUGS

One of the most dangerous contributory causes of crime today is the unlawful use of narcotic drugs, so much so, that it is recognized as one of the greatest menaces to the health and morals of the nation.

The problem of suppression of the use of narcotics is not local, but international in its scope. We have very strict Federal laws enacted to regulate the manufactures, sale, transporting, importing, prescribing, and other uses of narcotic drugs; and our own state laws are fashioned in conformity with these laws. But the problem of our local police force is largely concerned in the prevention of smuggling of narcotics and the arrest of distributors and users of such drugs.

It is a known fact that much of the narcotic drugs that are manufactured or come into this country legally are not being used for legitimate purposes, and in addition to this, a large amount of these drugs are being smuggled into the country from foreign countries by means of foreign ships and too often aboard American ships that touch at foreign ports. In addition to this, much of it comes over the Mexican and Canadian borders.

Before any of these drugs finally reach the addict, they have passed through many hands, each exacting a heavy profi and often increasing their gains by adulteration and adding to the quantity. The distributors that you will have to contend with are usually unscrupulous physicians, druggists, and others who are attracted to this nefarious business through the enormous profits being gained in its illegal sale. They are a crafty lot as a whole, and are rarely addicted to the use of these drugs themselves. You will find that your knowledge of police procedure, your intelligence, and ingenuity, will be severely taxed to obtain the necessary evidence to convict these persons.

No accurate nation wide tally of drug addicts has ever been made, but it has been estimated by the National Public Health Service that there are at least 100,000, and probably between 100,000 and 200,000 addicts in this country. Some agencies place the number even higher, and claim there are close to 1,000,000 addicts in this country.

Before going any further, it might be well to explain just what an "Addict" is. An "Addict" is a person afflicted with an abnormal craving for the use of narcotic drugs, not being used as a medicine or in the curing of disease. This means that an "Addict" is literally a slave to his particular drug habit, and as such, he often becomes a menace to society, himself, and his family. The arrest of these persons is often an act of humanity, as they become subject to false conceptions of their rights and powers, (especially users of cocaine) and often hallucinations approaching insanity, and resort to the most desperate and dangerous means in the commission of crime to obtain their particular narcotic drug and relieve their cravings.

Most people do not realize the danger that lurks in the use of narcotic drugs. Many persons have become habitual users by no more harmful a method than to take a little to relieve a cold. Some have used it primarily for a little nervousness and finished complete addicts. Others, such as nurses, drug clerks, or others who have the handling of these drugs, became users through just nibbling at them. Probably one-fourth of the total users became such through the treatment of painful or serious sickness or disease, where it was given them to relieve suffering. But the large majority of addicts became such through associating with users and desiring to feel the sensation of the drug. They soon found out that they could not get along without it.

One of the most despicable acts of the lower class of distributor is to frequent dance halls, pool rooms, and in some cases, even schools, and to pass out to the unwary boy or girl who is not feeling just right, his first shot of dope to show them how it will pep them up, etc. They do not accept any money for the first shot or two, but their object is to create new addicts and new customers.

The time for a person to become a complete addict to narcotic drugs varies. Some acquire the habit from the first dose taken, and others, who nibble at them off and on, take a longer time before they are addicts. However, it can be safely said that those that make it a practice of using them for the sensation derived from their use are practically sure of addiction sooner or later.

It does not take long in many cases after addiction, before the user becomes a physical wreck. They can be noticed by their thin emaciated and anaemic appearance. Their eyes and mouth, owing to the wasting away of the flesh about them, and their ever present fearful delusions, give them a ghastly expression, literally human skeletons. Their teeth commence to decay and later fall out, their eyes bulge out with drooping eyelids, while the white portion becomes unusually bright and the iris of a milky shade.

Drug addicts, as a rule, are very careful of their personal appearance, and you will rarely find them dressed in working clothes. They all like to appear prosperous and are very neat about dress and their person, until the last stages of addiction, when they are often filthy and lose all respect of themselves and their appearance.

When a person becomes an "Addict" owing to the enormous prices charged for even the smallest amounts used, his daily and necessary supply becomes a serious problem for the user, unless he is of the moneyed class. He is no longer able to hold any position, and in most cases, unable to do any form of manual labor. The only way open to him is a life of crime. He must steal to obtain his drug. The type of thievery he resorts to, varies with his physical condition. The more robust ones will resort to holdups, robberies, and other kinds of crimes of violence. The weaker ones will resort to all kinds of petty larceny, such as stealing from express wagons, stealing doormats, umbrellas, and coats in restaurants, etc. The female addict will resort to petty thieving also, but the majority soon become prostitutes of the worst kind.

The most common narcotic drugs used by addicts are "Opium", "Morphine", "Codeine", "Heroin", "Cocaine", or substitutes or derivatives thereof.

"Opium" has been known for over 2000 years, but opium addiction is a relatively new thing. No authentic record of it being found earlier than the middle of the seventeenth century. It is derived from the seeds of the poppy plant which is grown very extensively in India and China. When it is ready for use in smoking, it is a thick brown paste much like thick molasses. It comes in jars and cans, and is sold in small amounts in what is called "Decks" wrapped up in oiled paper, or on a common plating card. This is rolled into pills and placed on a wire, then heated over a peanut or other oil lamp. It is now ready for smoking. The addict uses his pipe, which resembles a long club with the bowl one-third from the end, and in the center of the bowl is a small hole on which he places the pill, and again holding it over the light it vaporizes and is inhaled through the small hole in the pipe into the lungs of the user. After he has smoked a few of these pills, he gets his "Load" and soon falls into the land of dreams.

"Yen Shee" is the ashes of opium. This is mixed up with a little pure opium and again smoked, or it sometimes is drunk when mixed with wine or water.

"Morphine" is a derivative of opium. It is very beneficial when rightly used. A small amount relieves pain and induces sleep. Small doses, continued for even so short a time as three weeks, sets up a craving for the drug. It comes in powder form, but sometimes it is made up in tablet form and in cubes like sugar. It is generally injected into the body by a hypodermic syringe. Sometimes a safety pin or an inkdropper is used for this purpose, or it may be eaten or drunk. You can always tell the morphine user by the marks of the needle on every part of his body.

"Heroin" is a derivative of morphine, more powerful and more habit forming. It looks like and feels like flour, and comes in and is used in the same manner as morphine. Most all good cough medicines a few years ago contained this drug. Some addicts sniff it up the nose or mix it with cocaine and inject it into the body.

"Cocaine" is a product of the cocoa leaf which is found principally in Peru. It is a white crystalline powder resembling camphor. It is sold in bottles, decks, phials, and sometimes put up in patent medicines. It is injected like morphine or sniffed up the nose like heroin.

"Codeine" is a product of morphine and used like it.

"Hashish" is a derivative of canabis indica, a narcotic preparation made from hemp in the Orient. It is chewed or smoked, and has long been used by the Turks, Syrians, and other Mediterranean peoples. We do not have much trouble with it in Boston, but if you run across it, you will find that you will have trouble in getting a conviction, because of the difficulty in getting some one who can properly analyze it.

"Marijuana" is a derivative of canabis sativa, another variety of hemp weed. It is grown principally in Mexico and in some parts of the United States. Its leaves can be dried, ground, and rolled into cigarettes which are bootlegged under the name of "Reefers", "Mary Warners", or "Muggles". Smoking "Marijuana" cigarettes produces a state of intoxication similar to that induced by alcohol, stimulates playfulness, and suppresses fear, and grows more popular everyday.

The most dangerous of them all are heroin and cocaine. They completely demoralize the users within a short time. They have a terrible effect on the addict, and those under its influence are liable to do any crime of violence that comes into their half crazy brains.

While the cure of the unfortunate persons who are addicts does not come within the province of the police, it may be of some importance for them to know that the medical authorities claim they can effect a cure for addiction. Medical opinion differs on the treatment of drug addiction. Drastic methods beginning with complete withdrawal are recommended by some. Others argue that complete withdrawal may be impossible in some cases, and for these, efforts should be directed to keeping the daily dose to a minimum. Where the drastic method is used, you will find much suffering, and physicians believe that the agonizing cravings which the addict goes through when deprived of his drug, will act as a deterrent to his ever using drugs again. In the other cases, they begin with a gradual withdrawal of the amount used by the addict each day until he is using none at all. When he is convinced that he can live without the drug and he is built up, both in mind and body, he is pronounced cured. Personally, I have not much faith in these cures as in most every case that I ever knew, they return to their former habits within a year or two at the most.

While the addict is a serious police problem, because of his criminal tendencies, the police should be especially vigorous and relentless in preventing the distributor or pedlar from operating upon his route. If the source of supply for the addict can be eliminated, you can readily see that we are going a long way towards preventing the growth of and continuing of addiction.

In the detection and apprehension of those engaged in this nefarious business, you will find that it requires extreme patience and skill, because the distributor or pedlar, realizing the heavy penalty if caught, operates with great caution in his movements and methods.

Usually the pedlar has his own particular clientele, who rely on him for their daily supply. He makes appointments to meet them at certain places at different times and changes the "meet" from time to time. He generally picks some place where it will be convenient to destroy or get rid of the drug if the police are coming, or if things look suspicious. Usually this is some place near the water, on a bridge, or elevated structure. He rarely carries or handles the drug himself, using some addict for this purpose who is satisfied in getting his daily supply for this service.

An example of how the pedlar supplies his customers may be taken from a case tried a few years ago in Boston. The pedlar had his "Meet" at the Dudley Street Transfer Station, where he met his clients, found out the amount desired, received his money for it, then told them to proceed to the

Egleston Square Station where they would receive the drug ordered. When they arrived at that place, they were all discharged on the outbound side. In a few moments, an inbound train arrived, and on a signal from another addict they all went to the end of the platform where the amount ordered was given to each man through the bars of the fence between the outbound and inbound sides. The pedlar acted so quickly, that he caught the same train he came in on and was arrested by an officer previously placed on the train and prepared for such emergencies.

In patrolling your route be suspicious of sickly looking persons hanging around and meeting others. Watch them carefully, and you may be able to detect a pedlar in the act of selling drugs. Remember that if you are satisfied this is a case of this kind, you must act quickly and be sure and get the one that has the drug on his person, securing the same, if possible, as he will attempt to destroy or get rid of it, so that you will have no evidence.

In searching the home or place of business of a distributor or pedlar on a warrant, do not be satisfied that you have all the drug if you find a small amount. These people hide their drugs in small amounts in various places with a view that if one of these hiding places is found, the police will be satisfied and not look further, thereby saving a considerable amount of the drug, and giving him a chance to pose as an addict rather than a pedlar. Be careful to search all places where it would be least likely to suspect as a hiding place for drugs. The pedlar realizing that his room may be searched, hides his "Stuff" under the carpet on the stairway, in the water tank of a toilet, behind pictures, on top of door sills, and in many cases right before your eyes. Care must be taken in searching either an addict or pedlar, as they are very clever in hiding it about their person. Look at hat bands, sweat bands, seams, and linings of clothing, false pockets, in the shoes, card cases, envelopes, etc.

While addicts and distributors of narcotics are not confined to any particular race or creed, the majority of them will be found in or about the haunts of criminals or prostitutes on your routes. If the addict is of the moneyed class, it is easy for him to avoid arrest and detection because he does not have to resort to the same methods as his less fortunate brother. The ordinary addict is compelled to buy his drug in small quantities and do business with the known distributor or pedlar, or from other persons or places under suspicion, so he can be easily detected.

When you have reason to believe that a person has on his person a narcotic drug illegally, and you have arrested him, or he is in custody, be sure your search is a thorough one, and if you find any liquid, powder, paste, or pills on his person, ask him where he got it, and the use it is intended for. Generally, he will admit it is a narcotic drug and claim he is using it as a medicine.

The following are the principal violations of the drug laws that you will be most likely to come in contact with.

UNLAWFUL POSSESSION:

It is unlawful for any person to have in his possession a narcotic drug, unless he is lawfully authorized by the Federal authorities such as physicians, dentists, veterinarians, wholesale druggists, pharmacists, or an incorporated hospital, college, or scientific institution through its superintendent or official in immediate charge, and then only on the written order of such persons, or upon the written prescription of a physician, dentist, or veterinarian registered as provided by law. It is also lawful for a police or other law enforcement official to have it in his possession for evidence, or when carried by a common carrier in lawful pursuit of his business between the persons named above, when used in a lawful medicine or remedy. In all these cases, it is prima facie evidence of unlawful possession, if the person possessing it has not either a permit from the Federal authorities, or a prescription from a physician, etc., or is a law enforcing official as described above. 94 - 205

UNLAWFUL SALE:

It is a felonious offence to sell, distribute, furnish, give, or deliver a narcotic drug; or to have in possession with intent to do any of these purposes, unless he is legally authorized as described in the previous paragraph. 5 years State's Prison.

It is an offence to prescribe a narcotic drug for any person except where actually used in the alleviation of pain or curing of disease not caused by the use of narcotics.

It is an offence to give more than a prescription calls for, or to fill the prescription for a known addict.

It is an offence for any person to have in his possession more than he is legally permitted to have.

It is an offence to do business without a license or not to have such license on his person or in his place of business.

It is an offence to fail to keep on file for two years all prescriptions and government order forms for drugs bought and sold.

It is an offence to have above a certain quantity of a narcotic drug in a patent medicine, and to have any amount of cocaine in such preparations.

It is an offence to advertise narcotic drugs in newspapers, or other journals except those journals used by the medical and drug trade exclusively.

A building, place, or tenement which is resorted to by habitual users of narcotic drugs for the purpose of using such drugs, or which is used for the illegal keeping or sale of the same, shall be deemed a common nuisance.

Remember in all narcotic drug cases, you must be prepared to prove that the article in question is a narcotic drug. So you must have it analyzed by the State Analyst whose signature to a certificate of analysis will be accepted by the court in evidence.

Chapter Twenty-Seven

GAMBLING

"Gambling" is the carrying out of an agreement between two or more persons to risk money, or other valuables, on a contest or chance of any kind where one must lose and the other gain.

A "Gambler" is one addicted to gaming or wagering money on a doubtful issue.

On the grounds that gambling is demoralizing, habitually fraudulent, and injurious to the general public, most states have made practically all forms of it a crime. To bet money on horse racing (except at legalized race tracks), cards, dice, football, or baseball games, to operate lotteries or pools are all forms of illegal gaming.

Most gambling is prompted by organized professionals whose sole idea is to fleece the easy mark. They generally operate bucket shops, gambling dens, lotteries, bookmaking establishments, and pools. But the ordinary games with cards or dice are not overlooked by these professionals, when it is known that there is plenty of money in the game, and this causes great loss and suffering to those individuals who come in contact with these sharpers.

The regular gambling den will be found in office buildings under some fictitious name, in club rooms, in lofts of business buildings, and often in private houses. They vary according to the class of customers who patronize each place, from the swell club with all that goes with it, to the ordinary bare room with just lights and the implements of gaming in it.

These dens have runners out to solicit trade and introduce new members, as it is necessary to have new "Suckers" all the time to take the place of those who have lost and left the place. These runners will be found in barber shops, speak-easies, on street corners, etc., and generally they receive a percentage of the money the victim loses.

The observant patrolman will quickly discover a gambling house on his route by noting a building with the blinds or shades drawn, the doors always securely locked, a man who is always on the outside apparently on watch, and immediately upon the appearance of an officer, quickly goes inside or gives some signal to those on the inside. He will also note men coming from, and going to this building at certain hours during the day and night. If it is horse racing, pool or lottery games, they generally appear between 2.00 P.M and 6.00 P.M., but if it is a general gambling house he will notice them between 8.00 P.M., and the early hours of the morning. He should make notes of all that he sees, make a few discreet inquiries, and he will generally discover a gambling house of some description in operation. He should immediately notify his superior officers of his suspicions and keep a strict watch on the place for further evidence to be used in court.

If you are assigned to get evidence against any form of gambling, you should try to gain entrance into the building. This can be done by getting acquainted with some one who has lost money there, and is willing to introduce you as a prospective customer so that you can get evidence, or by deceiving one of the runners into believing you are a "Good ship" for him to steer into the select circle.

Once inside, you must observe everything that is going on. Find out who is running the place, the doorkeeper, the cappers, the guards, runners, telephone operator, cashier, etc., and be able to testify to the part each one is playing in the gambling house. Make a memorandum of the time you entered, the conversation you had with everyone connected with the place, his description, the amount of money you wagered, names of horses on which you made a bet, the location of the track, or be able to describe any other kind of a game that is in progress.

If possible introduce another officer along with you and be careful to listen in on all his conversation with the keepers, etc. Have him do the same with your conversation. When the raid is about to be pulled, be sure you carry out the instructions of your superior officers, especially so if you are on the inside. They may want you to act like one of the gamblers, or to open a certain door, but in all cases you should be able to state what was done with the gambling implements, and if possible seize enough of them for evidence.

In cases where the transactions are being conducted in the street, such as the sale of lottery tickets, pool tickets, etc., in the presence of witnesses, mark the money to be used and have witnesses to the passing of the money. Get the culprit into a conversation regarding the race, the pool, the lottery, etc., and be sure to secure the ticket, the list of horses, or a receipt for the money, and then arrest him without a warrant. Search him at the station for the marked money, being careful that he does not dispose of it in the meantime, having witnesses to the money being found on his person. The following is your authority to arrest without a warrant.

Chapter 271, G.L. Section 2. Whoever, in a public place or conveyance, or in a private place upon which he is trespassing, plays at cards, dice, or any other game for money or other property, or bets on the side or hands of those playing, shall forfeit not more than $50 and not more than $100, or by imprisonment of not more than 3 months; and whoever sets up or permits such a game shall be punished by a fine of not less than $50 and not more than $100 or by imprisonment for not less than 3 months nor more than 12 months. If discovered in the act, he may be arrested without a warrant by a sheriff, deputy sheriff, constable, or any officer qualified to serve criminal process, and held in custody in jail or otherwise, for not more than 24 hours, Sunday and legal holidays excepted, until complaint may be made against him for such offence.

Notice, this gives you authority to arrest without a warrant where the gaming is in a public place, or a public conveyance, or in a private place where they are trespassing. This does not give you any authority to enter a man's house, his barn, or his building and arrest him and those present for gambling without a search warrant. Be careful on this. Don't take chances.

The principal forms of gambling are the following games, which are so well known to everybody that I am not going to describe them: Craps, Poker, Roulette, Betting on horses, automobile races, etc., Baseball pools, and Lotteries.

In poker or any other game with cards the "House" takes a percentage of the money as its revenue. This is called the "Kitty". But when the "House" has professional sharpers in the game they resort to marked cards, which are so marked as to be known only by these crooks, and of course, this greatly enhances their possibility of winning. They also use what are called, "Strippers" (the aces being slightly larger than the other cards) which can be easily felt or noticed in dealing the cards.

In dice games, the dice can be loaded to bring the desired numbers, usually craps (1 and 2) (6 and 6) or (1 and 1).

Roulette wheels can be fixed so that the ball will fall in a certain hole.

Horse racing is fixed by earlier news of the result of the race than that published, giving them time to change the odds or hedge on their bets, and crooked jockeys can "Fix" a race.

So you can see that in most games there is always a chance that the sucker is up against a sure thing game and for this reason, it is up to the police to prevent them from operating in Boston.

Another form of gambling is playing the so-called lotteries.

A lottery is a scheme by which, for a consideration, a prize is to be awarded by chance. Chance need not be the sole factor in the determination of the awarding of the prize. It is sufficient to constitute a lottery, if chance rather than skill is the predominant element in such award.

Chapter 271, Section 7. Provides that a fine of not more than $2000 or imprisonment for not more than one year may be imposed on any person, excepting a purchaser of lottery tickets, who participates in a lottery.

Sections 9 and 10 provide for the same drastic action for persons who sell lottery tickets or assist in any way therein. Section 14 provides for the forfeiture of such prizes, etc., and sections 12 and 15 provide for a fine and imprisonment for a person who helps to promote, set up, by printing or writing tickets for a foreign or domestic lottery, etc.

A recent decision of the Supreme Court rules that the operation of the so-called Mint Slot Machines were a gambling device and hence illegal. Slot machines that furnish anything beside merchandise of a quantity commensurate with the price deposited, are gambling devices within the meaning of the law.

Baseball pools, raffles, the Albany pool, the Clearing House pool, the old Louisiana Lottery, or the later Honduras Lottery whether for a charitable purpose or not, are all samples of illegal gambling.

NIGGER POOL:

Probably one of the most popular or widely played forms of gambling is the so called "nigger pool". It is an aftermath of the old Clearing House or Treasury Balance pool.

First of all, the "big shot" gamblers or "bookmakers" get together and select a race track that has the Pari-Mutuel system for pay-offs. The track must be grade A and handle at least $200,000 in Mutuel money. The numbers are determined from this track as long as the meet lasts, then they agree on some other track agreeable to all concerned.

The "lucky number" is determined by the addition of the mutuel pay-offs to the winning horses. Example: The first number is found by adding the totals - of what is paid to win; to place; and to show; in the first, second, and seventh races. The second number is found in the same manner by adding the totals of the first, second, third, fifth, and seventh races. The third number is found by adding all of the first seven races together. The totals are placed in columns as follows:

Rockingham Mutuels:

1-2-7 races - - - - - - - - - - -	$171.70	17(1.70
1-2-3-5-7 races - - - - - - - - -	195.60	19(5.68
1-2-3-4-5-6-7 races - - - - - -	279.00	27(9.00

The first number on the left of the decimal points make out the three number "hit", in this case 1-5-9. In a four number play to complete it, the second number on the left of the decimal point in the last total is added. In this case, number seven, and the winning number would be 1-5-9-7.

159 would be a three number hit and pays - - - 550 to 1.
1597 " " " four number hit and pays - - - 3000 to 1.
The "bleeder" last two number x59 pays - - - - 65 to 1.
" " last three numbers x597 pays - - 550 to 1.
The "box" is the winning number in any position,
i.e., 951 - 195 - 591 and pays - - - - - - - - 90 to 1.
The four number "box" four winning numbers in
any position pays - - - - - - - - - - - - - - - 250 to 1.
Then you can play on one number in the winning
number, such as x5x, lxx, xx9, and pays - - 9 to 1.

The "nigger pool" agents are persons who contact the public and solicit plays. They explain the different kinds of plays and accept whatever bets the person desires to make. The agent makes out an original and two copies of the play. One is given to the player, one to the agent, and the original is turned in to the backer or bookmaker.

If a client makes a "hit" the agent receives 10% of the player's winnings. The agent also receives 10% of the amount of money he turns in to the backer, after the "hits" are deducted.

Chapter 271, Section 17. Whoever keeps a building or room, or any part thereof or occupies, or is found in any place, way, public, or private, park or parkway, or any open space, public or private, or any portion thereof, with apparatus, books, or any device, for registering bets, or buying, or selling pools, upon the result of a trial or contest of skill, speed, or endurance of man, beast, bird, or machine, or upon the result of a game, competition, political nomination, appointment, or election, or whoever is present in such place, way, park, or parkway, or any such open place, or any portion thereof, engaged in such business or employment; or being such keeper, occupant, person found or person present, as aforesaid, registers such bets, or buys or sells such pools, or is concerned in buying or selling the same; or being the owner, lessee, or occupant of a building, or room, or part thereof, or private grounds, knowingly permits the same to be used or occupied for any such practices, or therein keeps, exhibits, uses or employs, or knowingly permits therein to be kept, exhibited used or employed, any device or apparatus for registering bets, or for buying or selling such pools, or whosoever becomes the custodian or depository for hire, reward, commission or compensation in any manner, of any pools, money, property or thing of value, in any manner staked or bet upon such result, shall be punished by a fine of not more than $2000 or by imprisonment for not more than one year.

Chapter 271, Section 22A. Nothing in this chapter shall authorize the prosecution, arrest, or conviction of any person for conducting or promoting, or for allowing to be conducted or promoted, a game of cards commonly called whist or bridge, in connection with which prizes are offered to be won by chance; provided, that the proceeds of the charges for admission to such game are donated solely to charitable, civic, educational, fraternal, or religious purposes.

Gambling is one of the oldest amusements. It reached its height during the nineteenth century, when it spread all over Europe, and millions of the wealth of the people were swept over green tables into the hands of unscrupulous adventurers.

Gambling in the United States is reaching new heights with the legalization of Pari-Mutuel betting at horse racing tracks all over the country. Then the so-called Irish Hospital lottery and other foreign lotteries annually take millions of dollars of American money.

We have also carnivals, bazaars, etc., usually endorsed by some veteran or fraternal organization, in which the receipts are supposed to go to some worthy charity. They get by on the word charity, and usually give out merchandise, such as dolls, candy, blankets, clocks, and other attractive articles on a chance or a wheel, or some other device. No one would find fault with them in cases of this kind even though it is gambling, but unfortunately, they can fix the machines so that a "capper" will win, or they soon get the people playing for money prizes increasing the ante until the police are called in. These forms of entertainment are always promoted by professional gamblers, and to use the expression of one of them, "I have forty men employed on this concession, and thirty nine of them are part of the original forty thieves." So what chance has the public?

There is no doubt that gambling is a direct cause of many crimes, such as larceny, embezzlement, and other acquisitive crimes just to get money to gamble with. Gamblers like "suckers" and there are no "suckers" like the ordinary crook. So we often find wanted men hidden away by professional gamblers, who see to it that these crooks have plenty of amusement in gambling, and soon take most of the proceeds of their crimes over the gaming tables.

That gambling is a cause of crime, a menace to the morals of youth, and the cause of much suffering to the poorer classes, especially to the wives and children, is recognized by all. The police must do all in their power to prevent organized gambling from getting a foot-hold in this city, and ever be ready to wipe out all forms of it, just as much as they would a fire menace or a source of a contagious disease.

Chapter Twenty-Eight

THE LIQUOR CONTROL ACT AND ITS ENFORCEMENT

The repeal of the 18th Amendment to the Constitution and the enactment of THE LIQUOR CONTROL ACT of 1933, has caused many new and radical changes in the enforcement of the law against the so-called liquor law violator.

It created the Alcoholic Control Commission, vesting in this body supervision of the retail sale of alcoholic beverages, and reserving to it direct control of wholesale and importation, manufacture and transportation.

The principal section relating to the police and its enforcement reads as follows:

G.L. Chapter 138, Section 56. A sheriff, deputy sheriff, chief of police, deputy chief of police, city marshal, deputy, or assistant marshal, police officers including a state police officer, or constable, or in the county of Dukes or Nantucket, the sheriff anywhere within his county, or an investigator of the commission, may without a warrant arrest any person whom he finds in the act of illegally manufacturing, selling, exposing, or exporting alcoholic beverages or alcohol, and seize the said beverages or alcohol, and any of the implements of manufacture or sale in the possession of such person, and detain them until warrants can be procured against such person, and for the seizure of said beverages or alcohol, vessels, or implements, under this chapter. Such officer shall enforce or cause to be enforced the penalties provided by law against every person who is guilty of a violation of this chapter of which they can obtain reasonable proof, and shall make all needful and appropriate investigations for said purpose.

Broadly speaking, it is now an offence to manufacture, sell, expose, or keep for sale, import or export alcoholic beverages or alcohol without a license so to do from the Alcoholic Beverage Commission, or the local Licensing Authority.

"Alcoholic Beverages", any liquid intended for human consumption and containing one-half of one percent or more of alcohol by volume at sixty degrees of Fahrenheit.

"Wines" all fermented alcoholic beverages made from fruits, flowers, herbs, or vegetables, other than cider made from apples, and containing not more than twenty-four percent of alcohol by weight.

"Malt Beverages", all alcoholic beverages manufactured or produced by the process of brewing or fermentation of malt, with or without cereal grains or fermentable sugars, or of hops, and containing not more than twelve percent of alcohol by weight.

"Alcohol", all alcohol other than denatured alcohol or alcohol described in chapter 94, section 2A.

"Licensing Authorities", the Commission or the Local Licensing Authorities, or both as the case may be, under the provisions of chapter 138 G.L.

Generally speaking, all wholesalers, manufacturers, importers, and exporters, brewers, etc., are licensed by the A.B.C. in conjunction with the Federal Authorities. Permits for transportation of alcoholic beverages are also granted by the commission along with the Federal Authorities. Retail licenses, such as hotel, restaurants, taverns, package stores, drug stores, for retail sale of liquor, etc., are granted by the local licensing authorities. However, the A.B.C. approves of all licenses and they are the final board of appeal where a license is disapproved by the local authorities.

All liquor laws and regulations are enforced by the police, and a staff of investigators attached to the Commission or Local license board.

Local option is submitted to the voters biennially and licensing of taverns may be authorized by special election petitioned by one percent of the registered voters.

Liquor may be retailed in restaurants, hotels, taverns, and clubs for consumption on the premises, and in "package stores" for use in the home. Such establishments are licensed by the local licensing authorities, subject to the approval of the commission.

The statutes determine the number of licenses for the sale of all alcoholic beverages by population units. One license for the sale of all alcoholic beverages to be drunk on the premises may be granted for each population unit of one thousand inhabitants in a city or town. One "package store" license may be granted for each five thousand inhabitants. Special provisions authorize the granting of at least four licenses regardless of population, in any city or town voting affirmatively. Licenses for the sale of wine and malt beverages only are limited in the discretion of the licensing authorities rather than by statute, the intent being to encourage temperance by the use of light wines and beer.

Hours of sale are fixed by the local authorities within statutory limits. Licensees for the sale of alcoholic beverages to be consumed on the premises, may sell between the hours of 8.00 A.M. and 1.00 A.M. on secular days, ceasing sale at midnight on Saturday. Taverns are not permitted to sell alcoholic beverages on Sundays, and must close at 11.00 P.M. on secular days. Statutes permit any licensee, between the hours of 11.00 A.M. and 11.00 P.M. on secular days to sell alcoholic beverages in accordance with the terms of his license. Cessation of sale may be ordered in times of riot, emergency, and during polling hours by local authorities.

"Package Store" licensees may, on secular days, dispense alcoholic liquors between the hours of 8.00 A.M. and 11.00 P.M. Sales may be made on all holidays excepting May 30th, Thanksgiving day, and Christmas, between the hours of 1.00 P.M. and 11.00 P.M. If the holiday does not occur on Sunday, sale is permitted on the preceding night until 11.30 P.M.

Aliens cannot sell, serve, or deliver, and minors cannot be employed in the direct handling of alcoholic beverages, nor may either hold any license or permit authorizing participation in liquor traffic. Sales of alcoholic beverages may not be made to minors, drunkards, or charity recipients. Women patrons must be seated at all times, and on Sunday all patrons must be seated at tables; sales of alcoholic beverages at bars or counters are prohibited on that day. Women are not to be served in taverns

All licensed establishments must be adequately lighted and kept in a sanitary condition. Restaurants, hotels, taverns, and clubs shall have adequate and suitable toilet facilities which shall be conveniently located and properly lighted.

The Alcoholic Beverage Control Commission licenses all wholesalers and importers, manufacturers, brokers, and salesmen, storage, and the transportation of alcoholic beverages by licenses, express, and trucking companies, railroads, and steamships. This commission also hears appeals from the refusal of the local licensing authorities to grant licenses or their action in revoking, cancelling, suspending, or declaring forfeited licenses that have been granted. Arbitrary power is vested in the commission to grant the relief asked, when circumstances warrant affirmative action. It has the authority to investigate on its own initiative, or on petition, the grant of any license or permit. The commission also regulates advertising.

Fees for permits and licenses are fixed within statutory limits.

Importation of alcoholic beverages into the state may only be made by licensed wholesalers and importers. Special permission may be had to import alcoholic beverages, in limited amounts, on proof that the beverages were acquired by other than purchase, and are intended for personal consumption. Retail licensees must purchase their products from Massachusetts wholesalers only.

Reasonable requirements are imposed upon licenses from time to time, by the commission and local authorities, to insure the proper control of the liquor traffic and meet public demand for pure alcoholic beverages.

Since the advent of the repeal, information received from the Federal authorities operating in Massachusetts, shows a decrease of at least 75% in violations of the Federal Liquor Laws. A large decrease is likewise shown in the number of illicit stills seized. An estimated volume of illicit spirits being used today is not greater than 10%, most of which comes in from Canada.

Public sentiment towards the sale of alcoholic beverages since the repeal of prohibition may be gauged in the local option vote, which has been twice submitted to the voters. In November, 1934, the question was submitted to the voters for the first time, and the result was that out of 355 cities and towns in the state, 82 towns and one city voted dry, the balance voting for the sale of alcoholic beverages in some form. In November of 1936, the question was again submitted to vote. Ninety towns and one city voted dry, the balance voting for the sale of alcoholic beverages in some form. A marked tendency toward the sale of all alcoholic beverages, in cities and towns voting "wet" was shown in preference to wine and malt beverages only.

In Massachusetts, the solution of the problem of liquor traffic is well settled by the provisions of our "Liquor Control Act". The general structure of the Act has proven so adequate, that all amendments to it contemplate a tightening up, rather than drastic changes in its features. However, any specific opinion, though based on statistics of liquor traffic is, at this stage, premature, but the general trend of the people of Massachusetts is unquestionably toward moderation in the use of alcoholic liquors.

The work of the police and other law enforcement officers will be confined chiefly to those few and ever decreasing few that still persist in the sale or keeping or exposing for sale without a license, unlawful manufacturing and transporting of alcoholic beverages and in the vast majority of cases, violations of the terms of their licenses by licensees.

The sale of alcoholic beverages and its manufacture is generally speaking, when illegal, confined to the sale of a cheap imitation of good liquor called "Sugar Moon". The patrons of these places are generally persons who are looking for a large amount for their money, without much care as to its quality.

Since the repeal of "Prohibition", we no longer find the elaborate establishments that were so common in those days. Today it is generally confined to the poorer localities, in cheap stores, tenements, and the like, where they can make sales after hours and early Sunday morning. In many of these places, you will find some sort of obstruction such as locked doors, peep holes, two or three doors to go through before entering the premises, etc., while not actually a barricade, yet just enough to delay you so that the liquor can be dumped or poured into some chemical that will not permit analysis.

If you are assigned to a route in a section so described, you may notice certain places that are evidently selling liquor illegally. Just as soon as you gain any evidence of this fact, notify your captain or sergeant right away, and immediately start watching the place. Take notice of the people who enter, their condition on entering and on coming out, whether or not they are of a drinking type, whether or not drinks are served, bottles are being passed, etc., on the payment of money.

Pay special attention to finding out who is the proprietor, his employees, the manner of gaining entrance, what is necessary to know so that a person may gain entrance to such places. Enter all this information in your pocket manual for future reference, and evidence at the trial. Have your side partner and men on adjoining routes, both day and night, also observe what is going on, so that they may be able to testify as to conditions concerning the place in question.

The best and most positive method of obtaining a conviction in cases, is to observe a sale of the particular alcoholic beverage in question. If you are detailed with a sergeant or special officer, or on duty in plain clothes on liquor law violators, try to find out how the liquor is being sold in the particular place under observation. If possible, work with a partner, and before entering such place, mark a bill of the size that will be called for in the sale of the liquor in the presence of your partner. Mark with pin pricks and take the number. Then approach the person or place suspected of selling the liquor and if possible, ask for the liquor in bulk, i.e., a bottle of beer, a pint of whiskey, or a bottle of wine. Both of you should take notice of what is being said and done, where the liquor was taken from, and if the sale is completed, immediately arrest the person making the sale. Remember it is important to get the marked bill, as it will strengthen your case in court. If he has it on his person, wait until you arrive at the station before searching him for it, and when it is found, call his attention to the marking and the number written in your memorandum book, and compare it with the bill in his presence. If you have no search warrant, you are not justified in making a search of the premises just because you obtained a sale. However, you are justified in seizing the liquor concerned, the implements, and furniture used in the sale, and probably any liquor in sight especially if it is in the same place from which the other liquor was taken - and the same size, etc., and obviously filled with liquor. Remember this does not give you the right to search the whole building, or even go outside the room in question to find liquor.

Remember that persons may possess in their dwelling house or garage or store, alcoholic beverages for their own use. Mere possession of alcoholic beverages is not sufficient evidence for a successful prosecution, and they can manufacture it also for their own use.

All liquors seized must be proven to contain the unlawful alcoholic contents. So upon a seizure of any kind of alcoholic beverage, you must have it analysed by the State Chemist. This means you must seal the sample taken on the premises if possible. Leave a sample with the vendor. Send the beverage to the State House to the State Chemist for analysis. Sign your name and home address on the certificate requesting the analysis, and the name and address where the liquor was seized. It is always better to bring the liquor you seized to the State House yourself, as there may be some questions as to whether or not it is the liquor you actually seized.

In trying to make a "sale" you will find that bootleggers are a wise bunch, and they will constantly tax your ingenuity for some new method of getting in on them so as to make a sale. Once it is known that you are a police officer, your chances of success are greatly diminished. You must refrain from talking with brother officers on the street, in your dress, and manner never let it be suspected that you are a police officer. You may have considerable success for a short time if you carry out these instructions, but once you have made a few arrests, these violators will make it their business to know you, and you will then have trouble in making purchases.

Sometimes, the police resort to what is called "Stools" to obtain a sale for them, but the courts are inclined to look with suspicion on these people, as they usually have a court record themselves, and their evidence is never reliable. They are just as liable to "double cross" you as they are to do the same with the culprit in obtaining the sale. It is better never to use any person in getting a sale who is not reliable and a responsible person, except in such cases where it is practically impossible to get a sale without their use, but in these cases, you must have strong corroborating evidence to convince the court that you have the defendant rightly.

Another method of prosecution is, after obtaining the necessary evidence, to apply to the courts for a warrant to search the premises in question. This is usually done under the supervision of a sergeant or other superior officer.

The important thing in these cases is the evidence of the route officers, and the officers especially assigned to this class of work. If it is possible, it is well to have persons who live in the neighborhood testify to conditions in and about the place complained of.

To obtain the warrant, two persons of mature age (21 years) must make a complaint to a court or justice that alcoholic beverages are being sold or exposed or kept for sale at the premises described in the application. If the court believes that there is reasonable cause to believe that alcoholic beverages are being sold illegally as alleged by the complainants, it will issue a search warrant to search these premises. Absolute proof is not required to get a search warrant, reasonable cause is enough.

When a search warrant has been obtained and the search is about to be pulled off, the sergeant should assign every man concerned in it, to a particular job or part of the building to be searched, making him responsible for a thorough and proper search in his part. He should have all entrances and doors covered so that the officers will enter at the same time, if possible. At least one officer should remain with the sergeant at all times, and listen to any conversation he may have with the proprietor or person in charge. This is important, as he can then corroborate whatever the sergeant may testify to in court. Any officer who finds liquor, must remember where he found it and under what conditions. He should notify the sergeant of his find, and a tag should immediately be put on the bottles, keg, jar, or barrel, stating who found it and in what room. After the search is completed, the sergeant himself should take samples to the State Chemist for a proper analysis. All police officers should be sure that they act in conformity with the law in making a search of this kind, as the courts are apt to look with disfavor upon anything done in a search that is not in strict compliance with the law on search and seizure.

The sergeant then applies to the courts for a warrant charging the proprietor with "Exposing and keeping for sale alcoholic beverages without a license so to do", making the necessary arrests and having his witnesses ready in court to testify, the certificate of analysis, the liquor, implements of sale, etc., ready for inspection by the court.

The third method of prosecution is used against old offenders. The charge: "Keeping and maintaining a common liquor nuisance". A liquor nuisance is any place that is resorted to for the sale or exposing or keeping for sale illegally, alcoholic beverages.

The gist of this offence lies in the words, "Resorted to", which implies more than one offence of selling or exposing and keeping for sale illegally. This law is used where a certain person has been convicted in court for violation of the liquor laws, and is again, or a number of times, later brought into court for such a violation in the same building or place. For instance: suppose you went into a place for the first time and obtained a sale of liquor; you not only could convict for the sale of liquor, but also for exposing and keeping for sale. But to convict him of maintaining a liquor nuisance, you would have to show that this place is being generally resorted to for the unlawful exposing or keeping for sale, or the sale of liquor. Good evidence would be after a sale or seizure of liquor on a search warrant, previous convictions for violations of the liquor laws (unlawful sale, or exposing and keeping for sale) in the same place, warning the person named to cease selling liquor, neighbors testifying to conditions in the vicinity and premises complained of, fights, arrests for drunkenness, etc., but all this testimony must not go back longer than three months from the date of the complaint.

As persons may manufacture alcoholic beverages for their own personal use, it is no offence unless such liquor is being made and it can be proven that it is intended for sale, and that the manufacturer has no license from the A.B.C.

Any person may, but only for his own use and that of his family and guests, transport alcoholic beverages or alcohol, without any license or permit, but not exceeding in amount at any one time, eight gallons of malt beverages, three gallons of any other alcoholic beverage, or one gallon of alcohol, or their measured equivalents; provided that any person may, without any license or permit, transport from his to a new place of residence established by him, alcoholic beverages manufactured by him for his own private use.

Outside of the provisions of the previous paragraph or section 22, chapter 138, the only defense open to a person transporting alcoholic beverages or alcohol is that he has obtained a permit from the A.B.C., allowing him to transport the liquor in question. The burden of proof is on him to prove that he has the required authority. It is safe to say that any person having a permit from the A.B.C. to transport liquor would promptly exhibit it for examination by the officer. This applies to having a license to sell liquor, express and trucking companies, steamships, and railroads.

Probably the most common violation of the present Liquor Control Act will be violations by licensees of the terms and provisions of their licenses. The following are points to remember in these cases:

All police officers of the City of Boston have officially been made agents of the Licensing Board.

Whenever you have an occasion to inspect licensed premises or applications for a license, be sure and identify yourself, if not in uniform by showing your badge.

It is to be understood that no dwelling house is to be searched by a police officer without a search warrant duly committed to him, and this includes sheriffs, deputy sheriffs, city marshal, police officers, state police officers, or constables. Fine of $5.00 to $100.

Do not use other than responsible persons in getting evidence. Do not disclose your source of information or the name of the person complaining.

Where alcoholic beverages are seized, be sure and seal the seized beverages on the premises. Observe the sale, if possible. Leave a sample with the vendor. Send the sample seized to the State Chemist for analysis. (Bring it yourself if possible. Get samples in original bottles.)

Sign your name and home address on the certificate requesting the analysis, and also the street and number and name of proprietor where liquor was seized.

If the sale was made by an alien or minor, make sure that he or she was "Employed" or in exclusive control, and that the alcoholic beverage was served or sold. Get a sample of beverage sold.

Where minors are to be used as witnesses, that is, if minors made the sale, were employed, or bought the liquor, be sure to get their birth certificates and see that they are legally summoned.

Remember in making a complaint against a licensed place, the license is your best evidence, if you can get it into court all right, otherwise have the clerk of the court issue a summons to the defendant (Duces Tecum) to bring into court his license. It is also advisable to get an attested copy of the license from the local licensing authorities. If the licensed premises are owned by a corporation, a copy of the charter is required. State the type of license. All government witnesses should be summoned into court. Be sure and read the license. You can testify to what you read in court.

Evidence: Have alcoholic beverages seized, analysis certificate, and copy of the license, birth certificate, and all necessary correspondence in court on the day of the trial and your witnesses present and all prepared to testify.

In testifying, state facts that you saw or did, not hearsay. Note: Statements of others made in the presence of the defendant that he answers to, can be used as evidence. Always prepare your case in advance. The term "Alcoholic Beverages" should be used rather than "Beer" or "Liquor". You may testify to what you have seen or heard in the defendant's presence. If you have read the license you may testify to its contents.

In investigating complaints, it is well to have another officer with you at the time of your investigation for corroboration. When it is possible, always try to gain an admission from the proprietors of their guilt.

In order to hold the licensee liable, he must be present at the time of the offence, made the sale, or permitted the sale to be made with his authority or consent. See regulations of A.B.C., section 21.

The following statements and quotations set forth the law applying to minors (any person under 21 years):

No minor may be employed in or about or in connection with "any saloon or barroom where alcoholic beverages are sold". This means taverns also. G.L. 149 section 64.

No boy under 18 years or girl under 21 years may be employed in mercantile establishments after 10.00 P.M. G.L. 149 section 66.

In the Labor Laws - hotels, restaurants, and taverns come under the designation of "mercantile establishments". G.L. 149 section 1.

The terms "employment" or "work" include the employment or appearance of minors as entertainers or in connection with entertainments, whether they receive money compensation, prizes, or no compensation at all. 204 Mass. 18-21.

So, no minor may be employed as a waiter or waitress in any part of a hotel, restaurant, tavern, or club where alcoholic beverages are served.

No minor under 18 years of age may do any kind of work or take part in any kind of entertainment in a room in which alcoholic beverages are served.

In mercantile establishments, no boy under 18 years or girl under 21, may do any kind of work or take part in entertainment after 10.00 P.M. 261 Mass. 226.

No minor may be employed in a mercantile establishment, pool, or billiard hall, or bowling alley unless the minor has an educational certificate. G.L. 149 section 95.

Bay rum does not come under the Alcoholic Beverage Act, as it is not intended for human consumption.

In corporations that are licensed, the manager is in conclusive control and is responsible.

In a prosecution for a violation of the regulations of the A.B.C., you must have a certified copy of such regulations in court.

DAYS AND HOURS WHEN ALCOHOLIC BEVERAGES OR ALCOHOL CAN AND CANNOT BE SOLD IN BOSTON

PACKAGE STORES

CAN SELL	CANNOT SELL
1. On ordinary week days from 8 A.M. to 11 P.M.	1. On Sundays, Memorial Day, Thanksgiving Day or Christmas, or on the days following when such days fall on Sunday.
2. Night before legal holidays to 11.30 P.M., except when legal holiday falls on Sunday.	2. On all other legal holidays before 1 P.M.
3. On legal holidays after 1 P.M., (except Memorial Day, Thanksgiving Day and Christmas).	3. During polling hours on election, primary, and caucus days.
4. After the polls close on voting days.	4. On ordinary week days between 11 or 11.30 P.M. and 8 A.M.

TAVERNS

CAN SELL	CANNOT SELL
1. On ordinary week days from 8 A.M. to 11 P.M.	1. On ordinary week days after 11.P.M., or before 8 A.M.

2. On legal holidays, 8 A.M. to 11 P.M. (except Armistice Day and Memorial Day, when can sell only after 1 P.M.).
3. After the polls close on voting days.

2. On Sunday.
3. During polling hours on election, primary, and caucus days.
4. On Armistice Day and Memorial Day before 1 P.M.

HOTELS, RESTAURANTS AND CLUBS - 7 DAY LICENSES

CAN SELL

1. On ordinary week days from 8 A.M. to 1 A.M., except Saturday nights to midnight.
2. On legal holidays, 8 A.M. to 1 A.M. (except Armistice Day and Memorial Day, when can sell only after 1 P.M.).
3. After the polls close on voting days.
4. On Sundays, 1 P.M. to 1 A.M. Monday.

CANNOT SELL

1. On ordinary week days between 1 A.M. and 8 A.M.
2. On Armistice Day or Memorial Day between 1 A.M. and 1 P.M.
3. During polling hours on election, primary, and caucus days.
4. On Sundays, 12 midnight Saturday to 1 P.M. Sunday.

HOTELS, RESTAURANTS AND CLUBS - 6 DAY LICENSES

CAN SELL

1. On ordinary week days from 8 A.M. to closing time fixed by the Board.
2. On legal holidays 8 A.M. to closing time (except Armistice Day and Memorial Day, when can sell only after 1 P.M.).
3. After the polls close on voting days.

CANNOT SELL

1. On Sundays.
2. On Armistice Day or Memorial Day before 1 P.M.
3. On ordinary week days between closing time fixed by the Board and 8 A.M.
4. During polling hours on election, primary and caucus days.

NOTE: - Special closing hours may be fixed by the Board for any restaurant or club at any time. Closing days or hours required by law or established by the Board means that the licensed premises must be closed and all patrons off the licensed premises.

DRUG STORES

A DRUGGIST HOLDING A CERTIFICATE OF FITNESS FROM THE BOARD OF PHARMACY: Can sell alcoholic beverages or alcohol on physician's prescription on any day and at any time.

ALCOHOLIC BEVERAGES UNDER ALCOHOLIC BEVERAGES LICENSE

CAN SELL On certificate of the purchaser:	CANNOT SELL On certificate of the purchaser:
1. On ordinary week days from 8 A.M. to 11 P.M.	1. On Sundays or legal holidays.
2. After the polls close on voting days.	2. During polling hours on election, primary and caucus days.

NOTE: - The CONDITIONS of a druggist Alcoholic Beverages license forbid the sale of alcohol for beverage purposes, and require that (except on physician's prescription) the purchaser sign the same certificate as for the purchase of alcoholic beverages; and the sale of alcohol on certificate is restricted to the same hours as for the sale of alcoholic beverages.

CERTIFICATE OF FITNESS ONLY: ALCOHOL

CAN SELL WITHOUT PHYSICIAN'S PRESCRIPTION:	CANNOT SELL WITHOUT PHYSICIAN'S PRESCRIPTION:
1. On ordinary week days at any hour.	1. On Sundays or legal holidays.
	2. During polling hours on election, primary, and caucus days.

LEGAL HOLIDAYS are New Year's, February 22, (Evacuation Day, March 17, is not a legal holiday), April 19, Memorial Day, (June 17 in Suffolk County only), July 4, Labor Day, Columbus Day, Armistice Day, Thanksgiving and Christmas.

NOTE: - By recent legislation, Armistice Day and Memorial Day are governed by the same laws as Sunday from 7 A.M. to 1 P.M., and Columbus Day is so governed as regards retail stores. These three days are the same as other legal holidays after 1 P.M.

POINTS TAKEN FROM THE STATUTES AND DECISIONS OF THE SUPREME COURT

Two persons of full age are required to make a complaint to obtain a search warrant, for exposing, and keeping for sale alcoholic beverages. If it is a dwelling house, one of the complainants must make the complaint on oath, and also a statement of the facts and circumstances of the case. Notice in these cases all evidence offered in court must have happened within three months of the date of the complaint. If it is a dwelling house, you cannot go back further than one month. 138 section 42-43.

All intoxicating liquors which are kept for sale contrary to law and the implements and vessels actually used in such selling or keeping or exposing for sale are declared to be common nuisances. 138 - 60.

All buildings used as clubs that are used for the purpose of unlawfully selling alcoholic beverages to their members or others shall be deemed common nuisances unless they are licensed under this chapter.

No person to be licensed under 21, no person to be employed in the direct selling of alcoholic beverages under 21, or whoever makes a sale, or being a patron of such a licensed place, delivers, or procures to be delivered in any public room or area of such establishment to any minor whom he knows to be or has reason to believe is under 21. $200 fine or more than 6 months. 138 section 34.

If A keeps in B's house liquor which A intends to sell illegally, and B keeps and maintains the house, even if B did not intend to sell the liquor, both are guilty. 160 Mass. 298: 160 Mass. 300.

Delivering liquor in or from a building, booth, stand, or other place except a dwelling house, or in a private dwelling if any part thereof or its dependencies is used as an inn, eating house, or shop of any kind, or other place of common resort, such delivery in either case, being to a person not a resident therein, shall be prima facie evidence that such delivery is a sale.

Keeping and Exposing is a continuous offence and evidence is admissible tending to show conditions before and after the day named, within a reasonable limit. 165 Mass. 18.

In an indictment for a liquor nuisance, a clerk or servant may be equally guilty with the proprietor, provided he is at some time, in control of the premises and during that time he made sales, etc. 105 Mass 46; 105 Mass. 465.

The offence of "keeping and maintaining a common nuisance" is local in nature, and proof of the city or town in which it is committed must correspond with the averment in the complaint, or indictment. 102 Mass. 148.

Liquor purchased in violation of the law and intended to be sold in violation of the law is a subject of larceny. 9 Gray, Mass.139.

An officer who was searching for liquor and seized a safe and took it away and had it opened. He found no liquor in it and so returned it. He was held guilty of conversion. 189 Mass. 399.

Officers had a search warrant for liquor and found and seized abortionist instruments. Court held that evidence so seized was admissible before the court. 157 Mass. 519.

Officers seized articles not included in the search warrant. The seizure was held admissible in evidence. 243 Mass. 363.

A search warrant can be served on Sunday, as it is not a civil process.

MESSENGER LAW

If the defendant made an actual sale of liquor, whether on his own account or assuming to be an agent for another, and whether or not the liquor belonged to him, and whether or not he had authority from another to sell, he is guilty.

On the other hand, if he merely informed some other party that someone desired to buy some liquor, and he was supplied by such person with the liquor, and delivered it and received the money of the buyer to give the seller, the defendant would not be criminally liable. 4 Allen 587.

A motor vehicle is an implement of sale, or container within the meaning of the law, if it is used in the unlawful sale of intoxicating liquor, and is subject to seizure and forfeiture. 138 section 50.

G.L. 138 Section 46. A sheriff, city marshal, chief of police, deputy chief of police, deputy or assistant marshal, police officer including a state police officer, or constable, who, without a search warrant duly committed to him, searches for or seizes alcoholic beverages in a dwelling shall be punished by a fine of not less than $5 nor more than $100.

A dwelling is any house or building or portion thereof which is occupied as the home of one or more persons; such a house or building must have independent means or facilities for cooking in each apartment. This does not include portions of buildings occupied by transients, such as hotels and lodging houses. It does not include portions of a building used for other purposes than dwelling purposes.

Where a sale to a police officer is made in a dwelling house, there is no question but what the officer is fully justified in seizing his evidence without a warrant, but this does not justify him in making a search of the whole house. He can seize what was actually used in making the sale and the containers thereof, but he can go no further.

What is a search? A search is an examination of a man's house, premises, or person, for the purpose of discovering proof of his guilt in relation to some crime, or misdemeanor. It can properly be made only by an officer duly authorized by a search warrant issued by a proper court or magistrate, specifying the place where the search is to be made, and in particular terms as the case will permit or admit of, the things to be looked for.

There has been no doubt that police officers have in many cases, acted in a high handed manner in their zeal to get evidence in regard to liquor cases. You may be justified in searching a dwelling house on the invitation of the owner, but this is a very dangerous proceeding, as you may have a hard time to convince the courts of this, especially if the owner denies giving you such permission. Why violate the law to gain a conviction? Why take chances?

Chapter Twenty-Nine

DANGEROUS WEAPONS, FORENSIC BALLISTICS

The use of pistols, revolvers, and other dangerous weapons in crimes of violence is one of the greatest, if not the greatest menace to the peace and tranquility of the public today. Where laws are lax on this important subject, the gunman is bound to flourish, and the trend of the legislators of this state is to make laws so drastic that the criminal will be deterred in having such weapons in his possession, not alone in the attempted use of them.

In Massachusetts, we have been rearranging and passing new legislation concerning dangerous weapons since 1922, and at present, I believe we have ample laws governing the same, but unfortunately some of our neighboring states have very little or no restrictive laws governing this important matter which makes it easy for the criminal to travel over the border, or with even less exertion, by sending a proper money order to the dealer in these other states, who will ship him his weapon by express.

While our laws are drastic enough for those who choose to violate the conditions set forth governing firearms, the practical result seems to be that the professional criminal has no compunction in violating these laws and is willing to take his chance on being caught with them and the punishment that goes with it. On the other hand, the law abiding citizen willingly lives up to the law, and in so doing is obliged to disarm himself of the most effective protection against these predatory classes.

The big fault in this whole matter seems to lie in the fact that the National Government has no laws affecting the interstate traffic in firearms, except that they may not be shipped through the mails.

Our own state bases its control act on the length of the barrel of the firearm. G.L. 269 - 10 provides that, whoever, except as provided by law, carries on his person or under his control in a vehicle, a pistol or revolver, loaded or unloaded, without permission under section 131 of chapter 140, or whoever so carries any stiletto, dagger, dirk knife, sling shot, metallic·knuckles, or sawed off shotgun, or whoever, when arrested upon a warrant for an alleged crime, or when arrested while committing a crime or a breach or disturbance of the public peace is armed with or has on his person, or under his control in a vehicle, a billy or dangerous weapon other than those herein mentioned, shall be punished by imprisonment for not less than 2½ years, nor more than 5 years in the State prison, or for not less than 6 months, nor more than 2½ years in jail or house of correction except that, if the court finds that the defendant has not been previously convicted of a felony, he may be punished by a fine of not more than $50 or by imprisonment for not more than 2½ years in a jail or house of correction, or whoever, except as provided by law, possesses a machine gun as defined by section 121 of chapter 140, without permission under said section 131 shall be punished by imprisonment in the State prison for life, or any term of years, and upon conviction, the pistol or other article shall be confiscated by the Commonwealth. The pistol or article so confiscated shall, by the authority of the written order of the court or trial justice, be forwarded by common carrier to the Commissioner of Public Safety, who, upon receipt of same, shall notify said court, or justice thereof. Said commissioner may sell or destroy the same, and in case of a sale, after paying the cost of forwarding the article, shall pay over the net proceeds to the Commonwealth.

Section 2. This act shall take effect on September first in the current year and shall apply in case of crimes committed on or after said date. Notwithstanding the provisions of this act, the provisions of said section 10 as in effect immediately preceding the said date shall continue to apply in the case of crime committed prior thereto.

Machine Gun: Any gun of small arm caliber designed for rapid fire and operated by a mechanism, or any gun which operates automatically after the first shot has been fired, either by gas action or recoil action, shall be deemed a machine gun for the purpose of this law. 140 section 121.

Firearms under chapter 140, section 121: Includes a pistol or revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged, and of which the length of barrel, not including any revolving, detachable, or magazine breach, is less than 18 inches. Machine guns included as firearms irrespective of length of barrel.

The above shall not apply to antique firearms incapable of use, nor to the sale of firearms at wholesale.

Dagger: A short sword. A short edged and pointed weapon, used for stabbing. It may have one, two, three, or even four sharp edges. A dagger always has a cross bar or guard for the protection of the hand.

Stiletto: A small dagger with a thin, rounded and pointed blade.

Dirk: A kind of dagger. Usually it has one cutting edge, with a sharp point and a blunt back and a cross bar or guard.

Dirk Knife: A clasp knife with a large dirk-like blade. Must have a cross bar or guard.

(Note: All these weapons must be primarily intended as a weapon to stab a person with.)

Slung Shot: Is an iron or other metallic ball slung by a rope and is used to hit a person with.

Metallic Knuckles: An instrument made of metal which fits over four fingers of the hand, with a metallic surface outside for the purpose of striking his opponent.

Sword and Pistol Canes: Are usually canes made in some foreign country, which have a sword or pistol attached to the handle which can be drawn from the cane and used as an offensive or defensive weapon.

Sawed off Shot Gun: This type of weapon is nothing more than the ordinary shot gun with the barrel cut down to a very short length, and the handle or butt also cut down to resemble the butt of a revolver. It is generally used in gang warfare and is a very effective weapon at close range.

Bludgeon: A short heavy club or stick, either loaded or made in resemblance of an Indian war club and used as a weapon.

Dangerous Weapons: There is no set rule for defining a dangerous weapon. A lead pencil might be a dangerous weapon under some circumstances, where it was used in such a way as to cause a serious injury to a person. Then again, there is no law violated where a person is carrying a razor or a butcher knife on his person. It all depends upon the use it is put to, and where any instrument is capable of inflicting an injury which might result in death or serious injury to a person and is used with that intent, it becomes a dangerous weapon in the eyes of the law.

Generally speaking, it is no crime for a citizen to own or have in his possession a shot-gun or rifle or to carry it through the streets, but it is against the law for an alien to own or have in his possession such articles. 131, section 74.

There are several types of so-called toy revolvers that all come within the category of firearms, because they are capable of discharging a bullet. This includes "gas pens" and "pencils", which are primarily intended to discharge tear gas, but could discharge a bullet and are very dangerous at short range.

The important thing to remember in all these types of suspected firearms is "are they capable of firing a bullet", and if so would it be dangerous to others.

In regard to a billy or other dangerous weapon, it is no crime to have possession of them, or to have them on your person unless the person is arrested on a warrant or while committing a crime or breach of the peace. If after arresting a person under these circumstances, you find that he is armed with a billy or dangerous weapon, it is then up to you to put the additional charge of carrying a billy or dangerous weapon on his person, etc.

Very few officers are familiar with the nomenclature of the essential parts of a revolver, and when called upon to testify, will refer to a cartridge as a "Bullet"; the hammer as the "Trigger"; the firing pin as the "Hammer"; and so on. This mystifies them under cross examination, and they are often unable to testify to what they said in direct examination.

Hand guns probably date back to the 14th century, but pistols derived their name from the town of Pistoja, Italy, where they were first made in 1557. Revolvers invented by Sam Colt came into existence in 1836. Automatic pistols were first used in 1893.

A pistol is a firearm known as a single shot hand-gun and differs from a revolver in that no part of it revolves. It is a single shot-gun and is practically out of existence at the present time except as a target pistol.

The revolver, so called because it has a cylinder that revolves, is a firearm capable of firing five or six shots according to the number of chambers in the cylinder. When the revolver is loaded and the hammer is drawn back to the cocking position, the cylinder which is chambered to hold the cartridges, revolves, bringing a cartridge directly under the firing pin, and when the trigger is pulled the hammer falls causing the firing pin to hit the primer and discharge the piece. This operation is continued by pulling back the hammer or squeezing the trigger double action, and firing the piece until all shots are fired.

An automatic firearm means a gun capable of firing as long as the trigger is held back. No automatic pistol does this. The so called automatic pistol merely utilizes the energy of the recoil to unload the gun, cock it, and reload it. The trigger must be pulled each time it is desired to fire it, as there is a piece of mechanism called the disconnector that throws the trigger out of action each time a shot is fired, so that the trigger must be pulled each time it is desired to fire the piece.

The caliber of a firearm refers to the size of the barrel. Technically, it means the diameter of the barrel bore or the bullet. In this country, it is measured in inches, or in small arms, the decimal parts of an inch, i.e., 32 caliber means .32 inches; 38 caliber means .38 inches, etc.

The term "Bore" means the internal cylindrical cavity of a firearm. In other words, the inside of the barrel. That part of the interior tube of the barrel in front of the breach block including the powder chamber, shot chamber, (big guns) slopes, and the rifled portion of the barrel. Sometimes referred to as a caliber, as a 22 bore rifle, etc.

By "Rifling" is meant the spiral grooves and the raised ridges called "Lands" that are found inside the barrel or "Bore" of rifles, revolvers, pistols, and machine guns. These lands and grooves vary in width and depth in the different firearms and some have a left and others a right twist.

The purpose of "Rifling" is to cause the bullet or projectile to rotate or spin in its course through the barrel, thus increasing its velocity and making it go straighter towards the object aimed at.

The rifling in all Colt's firearms is to the left. That is it has a left twist. They have six lands and six grooves. Grooves .0035 deep and one turn in 16 inches.

The Smith and Wesson and most other guns have a right twist to the rifling. The Smith and Wesson has five lands and five grooves. Grooves .003 to .006 deep.

Iver Johnson has five lands and grooves and the Harrington Richards has six lands and grooves in the 22 and five lands and grooves in the 38 caliber.

SUMMARY

Make	Direction of Twist	Rate in inches	Depth of Grooves	Number of Grooves
Colt	Left	16 (1)	.0035	6
S & W revolver	Right	10 to 24	.003 to .006	5 (2)
S & W Autos	"	12	.0045 to .005	6
H & R	"	12	.005	5 & 6 (3)
I. J.	"	15.75 to 23.33 (4)	.005	5
Savage 32 Auto.	"	12	.004	6
" 380 "	"	16	.004	6
Remington 32"	"	16	.0035	7
" 380 "	"	16	.0035	7

REVOLVER

(1) .22 Police Positive target has a 14 inch twist.

(2) The .45 Military Model 1917 Revolver has 6 grooves.

(3) The .22 cal. models have 6 grooves; .32 and .38, 5 grooves.

(4) The .22 cal. models have a pitch of 15.75 inches; the .32 and .38, 22.33 inches.

SHOT GUN GAUGES

In the days of old, before we ever heard of rifled firearms, all bullets were round. In those days, all barrels were what is called smooth bore. In determining the size, caliber, or gauge of these guns, they measured the number of round shot or bullets to the pound required for each arm and gave it that number. Thus a 50 gauge gun was bored to fire a ball that took 50 to make a pound, 20 gauge, 20 to the pound, 12 gauge, 12 to the pound, etc.

But things have been modernized since then, and we have a table that reduces the standard shotguns or smooth bore gauge to the decimal parts of an inch and also in millimeters.

Gauge or Bore	Diameter in Inches	Diameter in millimeters
8.	.835	21.8
10.	.775	20.0
12.	.729	18.6
14.	.693	17.8
16.	.662	16.8
20.	.615	15.6
25.	.571	14.4
30.	.537	13.6
32.	.526	13.2
40.	.488	12.4
50.	.453	11.4
410.	.4100	10.5

BULLETS AND CARTRIDGES

A cartridge is often miscalled a shell or a bullet, etc. It includes four principal parts:

(1) A cylindrical brass or copper case, commonly called a "shell".

(2) A primer; an exterior cap containing an ignition composition.

(3) Powder, either smokeless, lesmoke, or black,

(4) A bullet either lead or with some metallic composition as a covering.

Bullets weigh from 30 grains for the 22 caliber to 255 grains for the 45 caliber. Bullets are made of an alloy of lead and tin; 1 part tin to 15 parts lead. Some pistol bullets have a harder covering than lead, such as cupro metal or gilding metal, but no steel jacketed bullets are made in America.

FORENSIC BALLISTICS

Under modern conditions where a homicide or a shooting has occurred, the securing and identification of the weapon used is of great importance. This has become so important in evidence that it has developed into an exact science, sometimes called, "Forensic Ballistics".

"Forensic Ballistics" is a science that treats with motion and characteristics of firearms and ammunition by which individual units may be identified. The science of bullet or projectile expulsion and firearm identification as is admissible in court procedure.

It is divided into two classes or parts. Exterior ballistics and Interior ballistics. The former treats of the projectile after it has received its propelling force and is moving in the air towards its objective; the latter treats of conditions in the bore of the gun which created the propelling impulse to the projectile.

Generally speaking, the most important evidence in a criminal case is that which is found at the crime scene immediately after its commission. In all cases where firearms have been used, the investigating officer should be careful to carry out the following rules:

Keep all outsiders and persons not working with you outside of the crime scene.

Note carefully the position of the body and everything in the room (make a sketch). If outdoors, protect all articles on or near the body, and carefully note all you see.

Call headquarters for the official photographer and have him make photos of the room, the body, and its surroundings.

The weapon, if present, should be immediately guarded to prevent handling and destruction of finger prints. Be especially observant in noting the position of the weapon in relation to the body.

Never disturb the weapon. Leave it exactly as found. Do not remove the shells or loaded cartridges, but be careful to notice the presence or absence of the odor of burnt powder. The weapon should be turned over to the Medical Examiner (Boston only) or the Ballistic Expert.

When you are sure that a firearm has been used, all efforts must be made to secure the weapon. The same thing applies to discharged shells. Often the firearm may be located somewhere on the premises and shells may be found in the clothing of the victim, the draperies, in the rugs, or under various articles of furniture in the room. They should be marked for identification at once and in the presence of witnesses. (Use scratch marks on the sides of the shells or on the inside near the front end of the shell).

Some officers in marking shells, have scratched the base or head and prevented its identification because the head or base is the most important part of the shell, and comes directly in contact with the frame of the weapon, and retains many markings which can be readily identified under the microscope, as being fired from that particular arm.

Bullets must be carefully searched for also. Usually they will be found in the body of the victim, which of course, is up to the medical examiner to locate. But often they are found in other parts of the room, the walls, ceilings, furniture, in the clothing of the deceased, and other articles in the room. Try and determine the angle of entrance of the bullet and how it must have travelled. Where the culprit was when he fired the weapon. Powder marks will often determine how far away he stood when he fired the shot.

In removing bullets that have been imbedded in the walls, etc., be extremely careful not to scratch or leave marks on the bullet that may spoil it or hamper the expert in his examination of such bullet. All such bullets must be marked for identification, but never on the sides as this is the most important part of the bullet for the ballistic expert. Mark them on the base as they are flattened, or in the nose or point of the bullet.

Be extremely careful about powder burns. The body and clothing should be carefully examined for such marks or burns, and where they are found; they must be preserved for further examination and study by experts.

The firearm expert should be put in possession of the weapon at once. This is very important, as changes in powder residue and fouling set in very shortly after the cartridge is fired, and any delay may prevent the expert from making a proper decision as to when it was fired.

In studying such residue and fouling in the barrel the "Helixometer" is used by which the whole surface of the interior of the barrel can be examined and definitely determined whether or not it was fired, how long ago, what kind of powder was used, defects in the barrel that might mark the bullet, and if a revolver was used, the chamber from which the bullet was fired.

Empty or fired shells are of exceptional value in determining the arm used, as the marking they receive on the base or "Head" and the "Primers" or caps from contact with the frame and firing pin under high pressure, caused by the powder explosion when the weapon is fired, generally identifies the weapon used, if it is found and presented to the expert. Then again, the shell tells us whether or not it was an automatic or a revolver that fired it, and in the case of an automatic, it is so marked by the ejector as to identify it from all similar weapons. The shell also tells us what firm made the cartridge, the powder used, and its penetrative force.

Bullets recovered at the crime scene yield many important particulars to be used in evidence. It can be definitely determined whether or not they were fired by the weapon in question. Where no weapon is found, examination of the bullet will tell the expert what make of firearm was used, its size or caliber, the kind of ammunition, the powder, and its penetrative powers.

It is now a settled fact, that complete identification of arm used can be made by the bullet that was fired in that particular piece. This is so because all manufacturers use different specifications in the rifling of the arms they manufacture.

Each manufacturer has his own peculiar method of cutting the rifling in his firearms, which readily identifies such arms from those of any other manufacturer. Even in bullets fired by two firearms of the same make and caliber, there is enough difference in the markings that the barrel and rifling will make on the bullets to distinguish one from the other. This is so because the bullet in its course through the barrel bore acquires on its surface, the peculiar markings of that barrel alone.

The work of bullet identification must be done by a specially qualified expert with years of training. The purpose of this talk is not to make you an expert, but to make you understand why the firearm, bullets, and cartridges can be made to play a very important part in the arrest, detection, and conviction of those who use firearms in the commission of crime.

The expert, through his knowledge of bullets, cartridges, powder, firearms, and chemistry is enabled to make decisions in regard to weapons and bullets that are readily accepted in evidence before any court where such arms have been used in the commission of a crime.

Most of his bullet identification is done under a comparison microscope, and it is safe to say that no satisfactory comparison can be made without the use of such microscope. In using this microscope, the suspected bullet and a test bullet fired from the weapon in question are placed under separate lens in the same machine, side by side, and through an ingenious method of arranging prisms, they are fused into one under a single eyepiece. The result of this is, that you see one-half of the fatal and the other half from the test bullet composed into one. Now if one bullet is held stationary, and the other is rotated, and they were both fired from the same weapon, each land and groove of the moving bullet as it passes the lands and grooves of the stationary bullet, will fuse or match with it as to width and pitch angle. Then again, certain finer lines or scratches in the lands or grooves caused by the machining out of the bore will also fuse or line up all around the circumference of the bullet.

All this appears under the microscope, because the edges of the cutting tools are subject to wear each time they cut a piece out of the bore in the process of rifling. Then again, the metal in the different barrels and sometimes in the different parts of the same barrel is not uniform in its composition. This accounts for the fine lines and scratches which differ in every barrel, that are left by the cutting tools and differ even in the same grooves of the same barrel. So it can readily be believed that it is possible to make positive identification of bullets fired from any one barrel, through the markings left on the bullet in its travel through the bore.

Shells are also identified in a similar manner as to the gun firing them, by placing them under the comparison microscope as is done with bullets. When fired by the same arm, they may be identified - first, by the markings left by the firing pin which in shaping it, due to the wear of the machine, makes it different from all other firing pins; and secondly, by the markings of the machines and hand filing of the face of the breech of the gun, against which the shells recoil at the instant of firing, and which differ in every firearm, and such marks are imprinted on the head of the shell which readily identifies it as fired or not from the gun in question.

The question as to what type of powder was used may become a salient point in evidence, but the expert can easily determine this by the physical changes in the base of the projectile, caused by the powder charge which differs greatly according to the powder used. Black powder and smokeless are so different that they can be readily identified.

The following are the principal laws governing firearms, etc., in this state:

Chapter 269, section 12. It is unlawful for any person to manufacture or cause to be manufactured, or sell, or expose for sale a weapon of the kind usually known as a slung shot, sword cane, bludgeon, black jack, or metallic knuckles. Punishment - fine of not less than $50 nor more than $200, or by imprisonment of not over six months. Misdemeanor.

Chapter 269, section 10a. It is forbidden to sell, offer, give, dispose of, or use any instrument, attachment, weapon, or appliance for causing the firing of any gun, revolver, pistol, or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol, or other firearm. Punishment - five years in State prison or 2½ years in jail, or house of correction. Felony.

There has been a whole lot of talk about silencers on revolvers, etc., but the truth of the matter is that a silencer will be of little value on any hand gun, because the barrel is too short, and the gas will escape in enough volume between the chamber and the bore to hardly lessen the amount of noise made by the discharge of the gun. This does not apply to a rifle or any other long barreled gun, as the cartridge generally fits tight in the breech of these guns, and there is little, if any gas escape except through the muzzle, so that a silencer will muffle the noise in these guns.

Chapter 131, section 74 (1931-393). No unnaturalized foreign born person shall hunt any bird or mammal of any description, except in self defense, nor shall he have in possession any such bird or mammal or, within the Commonwealth, own or have in his possession or under his control a firearm; and any firearm owned by him, or in his possession, or under his control in violation of this section shall be forfeited to the Commonwealth. Fine of $50, nor over one month imprisonment or both. If, in any prosecution for any violation of any provision of this section, the defendant alleges that he has been naturalized, the burden of proving the same shall be upon him.

Chapter 140, section 129a. No unnaturalized foreign born person shall, within the Commonwealth, own or have in his possession or under his control, a firearm as defined in section 121, unless such person has a permit under section 131, to carry such firearm. Any violation of this section, shall be punished by a fine of not less than $100, or by imprisonment not over 3 months or both.

Chapter 140, section 130. Whoever sells or furnishes to a minor under the age of 16 years, or to an unnaturalized foreign born person any firearm, air gun, or other dangerous weapon, or ammunition therefor, or whoever sells or furnishes to any minor 15 years or over, who does not display and possess a license, then in force to carry a pistol or revolver or machine gun, issued to him under section 131 for any firearm, etc., shall be punished by a fine of not over $500; but instructors and teachers may furnish military weapons to pupils for instruction and drill.

Chapter 140, section 122. All persons, renting or leasing firearms must be licensed by the licensing board in Boston, and the street and number of the building where such business is conducted, shall be specified in said license, and the license shall not be good in any other place.

The following are some of the rules and conditions under which a licensee may conduct his business:

(1) That the provisions in regard to the nature of the license, and the building in which the business is being carried on, shall be strictly adhered to.

(2) That every licensee shall before delivery of a firearm make or cause to be made a true entry in a sales book, to be furnished by the licensing board, specifying the description of the firearm, the make, number, whether single barrel, magazine, revolver, pin, rim, or central fire, whether sold, rented, or leased, the date and hour of such delivery, and shall before delivery as aforesaid, require the purchaser, renter, or lessee, personally to write in said record sales book his full name, sex, residence, and occupation. The said book to be open at all times for the inspection of the police.

(3) That the license shall be displayed on the premises in a position where it can be easily read.

(4) That no firearms shall be displayed in any outer window of said premises, or in any other place where they can readily be seen from the outside.

(5) That the licensee shall, once a week, send a copy of the record of sales, rentals, and leases made by him for the preceding seven days to the licensing authorities and to the commissioner of public safety.

(6) That every firearm shall be delivered securely wrapped and fastened and shall be unloaded when delivered.

(7) That no delivery of a firearm shall be made on the day of application for purchase, rental, or lease thereof, except to a person having a license to carry a pistol or revolver issued under section 131.

(8) That no firearm shall be sold, rented, or leased to a person who has not a permit then in force, to purchase, rent, or lease a pistol or revolver, nor a machine gun without a license to possess the same.

(9) That the licensee upon sale, rental, or lease of a firearm, shall take up such permit, and shall indorse upon it the time and place of said sale, rental, or lease, and shall forthwith transmit the same to the commissioner of public safety. Must notify the commission of public safety on a machine gun, also.

(10) Licensees shall be subject to forfeiture of license for breach of or violation of any of these rules, and upon conviction thereof, his license shall become void. Chapter 140, section 123.

Note: Any dealer in firearms or rifles or shotguns, shall, before delivery of a rifle or shot-gun make a true entry in the book for that purpose; a full description of such rifle or shot-gun, the make number, whether single or double barreled or magazine, whether sold, rented, or leased, the date and hour of such delivery, and before delivery, require the purchaser, renter, or lessee personally to write in said book, his full name, sex, residence, and occupation. Chapter 269, section 10b.

Section 128 provides a penalty of 6 months to 2 years for violation of the 2nd, 4th, 6th, 7th, 8th, or 9th condition of the above rules, or any person who without a license sells, rents, or leases, or exposes for sale, rental, or lease, or has in his possession for any of these purposes.

Section 129 provides for a penalty of up to one year or a fine of $25 to $100 for giving a false name when buying, hiring, or renting a firearm.

Section 131B provides, whoever loans money secured by mortgage, deposit or pledge of a pistol or revolver shall be punished by a fine of not more than $500 or by imprisonment for not more than one year, or both.

Section 131C provides, no person carrying a pistol or revolver under a license issued under section 131, shall carry the same while in a vehicle unless such pistol or revolver, while so carried therein, is under the direct control of such person, and whoever violates the foregoing, shall be punished by a fine of not more than $100. Conviction must be reported to the person who issued the license, and he will immediately revoke it.

Notice a permit is necessary to buy a revolver or pistol, but it is not necessary to have a license to carry when you buy the weapon unless you want to get it the same day. A license to possess a machine gun is issued in the same manner, and no one can buy a machine gun or have it in his possession without a license to possess it.

Section 131: The justice of a court or a trial justice, the board of police, or mayor of a city, the selectmen of a town, or the commissioner of public safety, or persons authorized by them, respectively, may, upon the application of any person residing or having a place of business within their respective jurisdictions, except an alien, a person who has been convicted of a felony or of the unlawful use or sale of drugs, or a minor other than one 15 years of age or over in the employ of a bank, public utility corporation, or business of a similar nature, whose application is endorsed by his employer, issue a license to such applicant to carry a pistol or revolver in the Commonwealth, or to possess therein a machine gun, if it appears that he is a suitable person to be so licensed, and that he has good reason to fear an injury to his person or property, or for other proper purposes, and the carrying of a pistol or revolver for use for target practice only shall be held to be a proper purpose aforesaid. Such license shall be issued on forms furnished by the commissioner. Said forms shall contain blank spaces to be filled in with the following information relating to the license and to the licensee: - name, residence or place of business, commencement and expiration of date of license, place of birth, height, weight, complexion, color of hair, color of eyes, date of naturalization if formerly an alien, and signature of said licensee; and no further information or act of the said licensee shall be required. Copy of every license to be sent to the commissioner within one week after issuance. The fee for license, 50 cents. Whoever issues a license in violation of this section, shall be punished by imprisonment for not less than six months nor more than two years in a jail or house of correction.

Chapter 265, section 15a. Whoever commits an assault and battery upon another by means of a dangerous weapon, shall be punished by imprisonment in the State prison for not more than ten years, or by a fine of not more than $1000 or by imprisonment in jail for not more than two and one-half years.

Chapter 266, section 102a. Whoever, other than a police officer or other law enforcing officer, acting in the discharge of his duties, has in his possession or control an infernal machine or a similar instrument, contrivance, or device shall be punished by imprisonment in the State prison for not more than ten years, or in jail for not more than two and one-half years, or by a fine of not more than $1000, or by both, such fine and imprisonment, and the said machine, instrument, contrivance, or device shall be forfeited to the Commonwealth. The term "Infernal Machine" as used in this section, shall include any device for endangering life or doing unusual damage to property, or both, by explosion, whether or not contrived to explode automatically and whether or not disguised so as to appear harmless. Notice of the seizure of any such machine, instrument, contrivance, or device shall be sent forthwith to the commissioner of public safety, and the article seized shall be subject to his order.

Chapter 33, section 116. Whoever purchases, retains, or has in his possession any implement, or any weapon or ordinance or article of clothing, camp or garrison equipage or field equipage issued by and the property of the United States or this Commonwealth, unless the same shall have been issued to him or in his possession in accordance with law, shall be punished by a fine not exceeding ten times the value thereof.

Chapter 269, section 11A. For the purpose of this section and sections eleven B, eleven C and eleven D, the following words shall have the following meanings: -

"Firearm", a firearm as defined in section one hundred and twenty-one of chapter one hundred and forty, or a rifle or shotgun.

"Serial number", the number stamped or placed upon a firearm by the manufacturer in the original process of manufacture.

"Identification number", the number stamped or placed upon a firearm by the commissioner of public safety under authority of section eleven D.

Section 11B. Whoever, while in the commission or attempted commission of a felony, has in his possession or under his control a firearm the serial number or identification number of which has been removed, defaced, altered, obliterated or mutilated in any manner shall be punished by imprisonment in the state prison for not less than two and one-half nor more than five years, or in a jail or house of correction for not less than six months nor more than two and one-half years.

Section 11C. Whoever, by himself or another, removes, defaces, alters, obliterates or mutilates in any manner the serial number or identification number of a firearm, or in any way participates therein, and whoever receives a firearm with knowledge that its serial number or identification number has been removed, defaced, altered, obliterated, or mutilated in any manner, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not less than one month nor more than two and one-half years. Possession or control of a firearm the serial number or identification number of which has been removed, defaced, altered, obliterated, or mutilated in any manner shall be prima facie evidence that the person having such possession or control is guilty of a violation of this section; but such prima facie evidence may be rebutted by evidence that such person had no knowledge whatever that such number had been removed, defaced, altered, obliterated, or mutilated, or by evidence that he had no guilty knowledge thereof and that prior to his prosecution on the charge of a violation of this section he presented such weapon to the commissioner of public safety and requested said commissioner to stamp or place an identification number thereon.

Section 11D. The commissioner of public safety, upon request of the lawful owner of a firearm having no serial number and no identification number, or having a serial number which is not as stamped or placed thereon by its manufacturer and having no identification number, or the identification number of which is not as stamped or placed thereon by the commissioner under authority hereof, as the case may be, shall stamp or place thereon an identification number. The commissioner shall keep a complete record of every such firearm, together with the full name, address and occupation of each person making such a request.

Chapter Thirty

JUVENILE DELINQUENCY

Next to the "Crime Wave" itself, probably no subject relating to crime has had more discussion than the high rate of juvenile delinquency prevailing at the present time in all parts of our country. This has been so much so, that comisions have been appointed to inquire into the causes and the best manner of prevention of these delinquencies, in most every large city of the country.

The following are twelve outstanding causes of juvenile delinquency given by a commission appointed to inquire into this matter in New York City.

(1) Bad companionship.

(2) Declining respect for authority.

(3) Lack of home supervision due to death, separation, desertion, or divorce of either or both parents.

(4) Lack of religious training and education.

(5) Too much leniency in the Juvenile Courts.

(6) Lack of home supervision, due to the daily employment of father and mother.

(7) Newspaper publicity of crime news.

(8) Money madness caused by commercialization of all life's activities.

(9) Delays in the administration of justice.

(10) The practice of hanging around pool rooms, billiard halls, bowling alleys, and amusements of a like nature.

(11) Lack of real responsibilities or duties for young people.

(12) Lack of proper recreational facilities.

Delinquency in children which is so prevalent in large cities, may be attributed to hereditary defects of parents resulting in children being born abnormal or morons. This is often due to the disease or dissipation of the parents and transmitted to the child.

A large number of these children born in squalor, have little attention paid to their physical condition. They suffer from mental and physical defects such as, adenoids, bad tonsils, bad teeth, and defective eye sight. This makes them backward in school, which is often followed by truancy and crime.

Dissipation and immorality follow hand in hand, and cause poverty. Poverty is the cause of much juvenile delinquency. Mercenary parents often make their children sell papers, peddle without a license, beg, or steal or in any other way to bring in money.

In many cases, little attention is paid to the education of children. They take a dislike to school. The teachers are out of sympathy with them,play favorites, and hold backward children up to ridicule. This results in much delinquency.

Then again moral standards have changed. Parents have less control over their children. Youth rebels against discipline. They give up their positions with little cause and fail to obtain another. Unemployed time hangs heavily. They congregate in some breeding place for crime such as pool rooms, cheap cigar stores, billiard halls, dance halls, cabarets, speakeasies, and gambling houses.

The suppression of juvenile delinquency must start with the proper care of the child. Parents must be aroused to a better understanding with respect to their obligations and duties in the care of their children.

It is the duty of every parent to see that their children have a good home, a proper environment, some form of correct training, a supervision of their habits, and companions, and a schooling or education which will fit them for life's battles, according to their mental qualifications.

The child that is allowed to roam the streets at will, especially at night, to pick his own companions, to join a street gang, and to imbibe freely of the practices and habits of the more vicious elements in the street is bound to wind up a gangster and a criminal.

While the responsibility for the proper care of the child rests clearly upon the parents, the police can help them in this matter by a thorough understanding of all the laws relating to the care and protection of children. They should be especially interested in those laws that relate to the punishment of persons who abuse, endanger, or neglect their health, morals, education, and general welfare.

In Massachusetts, we have long ago recognized the advisability of preventing children who have committed a crime, from coming in contact with the more mature and hardened criminals, that abound in every institution for correction. We have, accordingly, established a juvenile court, enacted laws concerning the arrest, transportation, detaining, medical examination, and punishment of such children, which will prevent such contact, and will help promote a healthy regard for law and order.

Every child in Massachusetts between the ages of seven and seventeen, who commits any crime not punishable by death, or imprisonment in the state prison for life, must be first brought into court as a delinquent child, unless the court orders otherwise. This is done because the courts and the law takes the view that children of tender years who commit a crime are more or less in need of parental care, and they will take steps to provide such care. Therefore, children under seventeen are not branded criminals, nor are these criminal delinquencies held as a record against them when older.

All police officers should be very careful in making arrests of children, as the natural fear the average child has of being arrested, disappears once he has been taken to the station house, and brought before the courts. Juvenile courts are generally very lenient to first offenders. This is liable to create the belief in the mind of the child that being arrested is not a very serious thing after all. Do not bring children before the courts until all other means of settling the case have been exhausted.

On your route, you will have many occasions to impress children of the necessity to obey the laws. Try and remove the "Bogey Man" fear of the police that has been installed in their minds by foolish parents or others. Get them to believe that you are interested in their welfare, and like to see them playing and enjoying themselves. What did you think of the average police officer when you were young? You believed they were the greatest "kill joys" on the earth, especially appointed to make life miserable for playing boys.

When it is necessary to prevent children from playing in the street, i.e., coasting, etc., explain the danger they are running in so doing, and that this is the reason why you are stopping them from so doing. If you are going to prevent their playing in certain streets or places, always provide or tell them of another place where they can play and you will not molest them. Remember that childhood is the time for play, and it is necessary for the development of the child. They have the rights, as well as those who are continually complaining of their playing in the streets. Where children are indulging in an innocent game, which does not seriously interfere with persons or property in the neighborhood, nor tend to injure their health or morals, they should be left alone and not interfered with.

A police officer who is interested in the welfare of children will seize every opportunity to prevent children from stealing or committing other crimes. He should be especially alert for those places that will receive stolen goods from children. Make it hard for these places, and persons on your route, and you will prevent many larcenies, which are the direct cause of juvenile delinquencies. Junk dealers, second hand dealers, shopkeepers, and even housewives should be watched, as they often buy goods from children at such prices that common sense would tell them it is stolen.

Pool rooms, billiard halls, bowling alleys, candy shops, cheap moving picture shows, shady dance halls, beach resorts, etc., should be all observed for children associating with vicious, immoral, or disreputable persons, and their parents notified of such conduct.

He should immediately report any conditions existing that can be remedied by any branch of the police department, or any other city or state department.

Charitable, welfare, educational, and religious organizations may often be called in where poverty, improper guardianship, lack of schooling, or religious training is the cause of juvenile delinquency, thereby aiding materially in the reduction of criminal offences by children.

All these instructions are very important on the part of the police, because if he carries them out, many children will be prevented from committing crime or leading lives of shame, which is a more laudable piece of police procedure than sending them to institutions of correction after they have committed some serious crime.

The following are a few of the most important laws in reference to juvenile delinquency:

DELINQUENT CHILD:

Any child between the ages of seven and seventeen who violates any city ordinance or by-law, or who commits any crime not punishable by death or imprisonment in the state's prison for life.

WAYWARD CHILD:

Any boy or girl between the ages of seven and seventeen who habitually associates with vicious or immoral persons, or who is growing up in circumstances exposing him to lead an immoral, vicious, or criminal life.

NEGLECTED CHILD:

Any child under sixteen years by reason of orphanage, neglect, crime, cruelty, drunkenness, or insanity, or any other vice of its parents, is growing up without proper physical care, or in circumstances exposing him to lead an idle and dissolute life, or is dependent upon charity.

STUBBORN CHILD:

Any boy or girl between the ages of seven and twenty-one, (Note: between seven and seventeen, Juvenile Court) who on divers days and times within six months last past, has stubbornly refused to submit to the lawful and reasonable commands of his or her father, mother, or lawful guardian whose commands he or she was then and there bound to obey.

Criminal proceedings shall not be begun against any child between the ages of seven and seventeen, except for an offence punishable by death or life imprisonment, unless delinquent child proceedings have been begun and dismissed. Chapter 119, section 74.

A child under fourteen years, unless convicted of a crime not punishable by death or imprisonment for life, shall not be committed to a lockup, jail, police station, or house of detention. But a boy twelve years or older, arrested in the act of violating a law of Massachusetts, or on a warrant, may in the discretion of the arresting officer be committed to a lockup, jail, police station, etc. Chapter 119, section 66.

In any case where the child is committed, the parents and the probation officer must be notified. Chapter 119, section 66.

District courts shall have jurisdiction of felonies not punishable by death or life imprisonment committed by juveniles. Chapter 218, section 29.

If said child is under fourteen years, said court shall issue a summons requiring him to appear before it at the time and place specified, and such summons shall be issued in all other cases, instead of a warrant, unless the court has reason to believe that he will not appear upon a summons, in which case, or if the child has been summoned and did not appear, said court may issue a warrant. Chapter 119, section 54.

The arresting officer may release a child between seven and seventeen whom he has arrested, with or without a warrant, to the parent, guardian, person with whom he resides, upon their written promise to have such child appear in court at the time and place specified, except where the arrest is on a warrant and the court has ordered otherwise. Chapter 119, section 61.

Where a child between the ages of twelve and seventeen has been committed to a lockup, etc., the probation officer and one of his parents must be notified. On written request of the probation officer, the child shall be delivered to him unless the arresting officer has made a written request for his detention. Chapter 119, section 66.

MINORS:

Whoever sells a cigarette to a person under eighteen years, or snuff, or tobacco of any form to a minor under sixteen years, or whoever not being parent or guardian, gives a cigarette to a minor under eighteen years, or snuff, or tobacco to a minor under sixteen year. $50 fine. Copy of this law must be posted in such stores that sell tobacco, etc. Chapter 270, section 6.

Whoever employs or permits a child under fifteen years to beg, whether parent or not. 6 months, H.C. $200 fine. Chapter 272, section 58.

No female under 18 years shall engage in bootblacking. Chapter 149, section 69. 1921

No female minor under 16 years or over, shall engage in bootblacking, nor shall anyone employ such female. R.O. 38.

Unlawful to furnish or sell a minor under 15 years, or to an unnaturalized foreign born person any firearm, air gun, or other dangerous weapon or ammunition therefor, or whoever sells or furnishes to any minor 15 years or under who does not possess and display a license to carry a pistol or revolver properly issued. $500 fine. Chapter 140, section 130.

Unlawful to sell wood alcohol, etc., to minors under 16 years, and then only after reasonable inquiry to determine that it is not to be used for beverage purposes. Chapter 138, section 37.

Boys under 12 years and girls under 18 years cannot engage in street trading. Boys between 12 and 16 years must get a license from the School Committee to be newsboys, fruit or vegetable pedlars, or bootblacks on the street. Boys between 12 and 14 years must not sell before 6.00 A.M. or after 8.00 P.M. or during school hours. Must have a white badge.

Boys between 14 and 16 years attending high school, red badge. To deliver or sell newspapers, etc., on the street. Hours 6.00 A.M. to 9.00 P.M., but not during school hours.

Green badge. Bootblacks. For boys between the ages of 12 and 16 years. Not to practice trade on the Common or Public Garden. Hours 6.00 A.M. to 8.00 P.M. Sundays, not after 11.00 A.M.

Blue badge. Pedlars. Boys between 12 and 16 years. To sell fruits and vegetables ONLY. Only in the market district (as specified by the police commissioner). Days permitted: Saturdays and the day before Thanksgiving and Christmas. Hours 3.00 P.M. to 8.00 P.M., fall and winter months. 3.00 P.M. to 9.00 P.M., spring and summer months. Boys under 16 and girls under 18 must be licensed by the School Committee.

Boys between 16 and 21 years and girls between 18 and 21 must receive licenses from the mayor and city council (City Clerk). To peddle fruit, fish, or vegetables, they must receive a license from the Superintendent of Pedlars or the Director of Standards. To peddle small wares, novelties, cut flowers, etc., a license from the Director of Standards.

No child under 16 years to enter at a boxing exhibition. No person under 18 years to be a contestant. 147 - 39.

Minors under 16 years not to work in factories, stores, etc., before 6.00 A.M., nor after 6.00 P.M. 149 - 60.

No person shall operate a freight elevator or repair it, who is under 16 years. No person shall operate a passenger elevator in Boston, unless he is 18 years and has a license from the Building Commission.

No person shall operate an auto for hire under 18 years.

No child under 15 years shall act on the stage for pay, or in a circus, or play in a band. School shows, religious shows, charity shows, etc., excepted. 149 - 104.

A child must be over 14 years to enter a theatre alone after 6.00 P.M.

A child must be over 17 years to enter a dance hall between 6.00 P.M. and 6.00 A.M., unless accompanied by an adult person or relative. 140 - 198.

A child must be 16 years or over to be an itinerant musician.

No minor under 16 years to be employed in any billiard hall, bowling alley, or pool room. 149 - 61. Minors under 21 years not to enter such places without written consent of their parents.

Minors not to handle liquor in any establishment under 21 years. 138 - 34.

A parent or guardian or other person who employs a minor under 15 years in begging, or who, having the care or custody of such minor, permits him to engage in such employment, shall be punished not more than 6 months or fine of not more than $200. 272 - 58.

Any person who shall be found to have knowingly or wilfully encouraged, aided, caused or abetted, or connived at, or has knowingly or wilfully done any act to produce, promote, or contribute to the delinquency or waywardness of such child, may be punished by a fine of not more than $50 or by imprisonment for not more than 6 months. The court may release on probation under section 87 of chapter 276, subject to such orders as it may make as to future conducts tending to produce or contribute to such waywardness or delinquency, or it may suspend sentence under section 1 of chapter 279, or before trial, with the defendant's consent, it may allow the defendant to enter into recognizance, in such penal sum as the court may order for the promotion of future welfare of the child, and the said case may be then placed on file. The provisions of appeal and recognizance in section 56 of chapter 119, shall be applicable to cases arising hereunder. The Boston juvenile court shall have jurisdiction concurrent with the municipal court of the City of Boston, of complaints hereunder. 119 - 63.

This section should be made use of for those cases where children are brought into court and older persons were the cause, or had something to do with their delinquency, especially the receivers of stolen goods, etc. The juvenile court is much more competent to handle cases of this kind, as they will have the story first hand and are more interested in the welfare of children.

TRAFFIC REGULATION

Probably one of the most discussed and most misunderstood problems that confront the modern police department is the scientific regulation of vehicular and pedestrian traffic. Boston in particular, because of its narrow winding streets, the lack of direct intersections, irregular traffic flows, and the prevalence of bottle necked thoroughfares in our down town section, presents a problem that should interest every superior officer and patrolman, where opportunities to help in the general scheme to alleviate this congestion, present themselves.

The first duty of a police officer to the public is to protect life. So public safety and convenience are two very important functions in any Police Department.

"The Traffic Problem" in a modern community means the method of assisting vehicles and pedestrians in their safe, economic, and expeditious movement through the community. Naturally, a greater burden has been placed upon the police than on any other department, but in spite of all the means adopted, and the strenuous efforts to control it, the loss of human life and injuries to the public have grown steadily worse.

It is costing the United States more lives in an equal length of time than the World War or any disease. The toll is three times as great as our homicide record. Twice as many people die by autos as those that commit suicide. And finally, the economic loss due to automobile accidents is four times greater than fire.

It can readily be admitted that the traffic problem will never grow less if it is left to itself. Traffic mobility is a sign of progress. Automobiles are necessary in our daily life, and they are designed more and more for speed, but through this, they have become a terrible engine for destruction and death. This is a problem, a real crime problem for all police departments to get under control.

There can be no question that the strict enforcement of the Automobile Law and Traffic Rules are primarily essential. It has been definitely proved in many communities, that strict law enforcement is the greatest preventative and brings about the best results. The public are relying on us, and we must accept the challenge if we must make definite progress.

"Traffic" is vehicles and pedestrians on arteries of travel, either moving or temporarily held. Each individual unit of traffic might be compared to the corpuscles of the blood, helping to carry energy through the community. With circulation stopped, the activity and life of such community must soon cease.

In every city, the effective solution of a large part of its traffic problem depends upon the efficiency of its traffic control.

By "Traffic Control" is meant, the guiding influence and regulation exercised over vehicular and pedestrian traffic. This means not only the efforts of the traffic squad, but also the efforts of automobile traps, cruising cars, the individual patrolman, safety campaigns, instructions to school children, and pedestrians in general.

Efficient traffic control has for its purpose, the guiding and regulation of traffic, so as to obtain the greatest speed consistent with safety. In the outlying sections, it applies to efficient enforcement of the automobile laws and the law of the road. Traffic regulation is the more complex phase of traffic control, whereby one or more lines of traffic are held back temporarily to allow the free and unobstructed passage of other lines of traffic.

Police officers, especially traffic officers and automobile men, are the greatest guides in traffic control and regulation. The traffic officer indicates by a method of hand signalling, or lights, the correct paths to follow, or when and where to stop while other units are moving. He is the most important single help in handling our complex traffic problem, and in his efficiency at his particular post, lies the efficiency of the police traffic control as a whole.

To aid the officer in his duties and to expedite the handling of vehicular traffic and pedestrians in our city, has necessitated the formation of a set of Traffic Rules and Regulations. It is necessary that all officers, whether on traffic duty or not, - familiarize themselves with these Rules and Regulations, especially those that apply to their particular division.

The first and most effective step in the efficient regulation of traffic is the education of those to be regulated. Its object should be to teach motorists and pedestrians the necessity of caution, and to behave in such a way as to prevent accidents, regardless of the highway, the vehicle, or operating conditions.

Whether the starting signal or signal to stop is given by hand, or mechanical device, all officers should see that traffic is stopped at least 20 feet from the intersecting way, so that the cross-walk is clear and pedestrians have a free and unobstructed path in crossing streets.

Do not allow pedestrians to loiter or stand on cross-walks. Watch for jaywalkers, and warn them of their danger in so doing and to take their turn in crossing streets, and thereby avoid accidents.

In stopping traffic for pedestrians to cross, wait until there is a considerable number of persons to cross, rather than stopping traffic for every single person that comes along. Have traffic so regulated, that when you stop it in one direction, there is a reasonable amount of traffic to come from the other direction. In most traffic posts, the larger amount of traffic comes from one particular direction, while the smaller amount comes from another, so, in handling such traffic, always favor the direction from which comes the greater amount of traffic.

Keep heavy and slow moving vehicles to the right and as near the curb as possible, so that the faster moving traffic can pass more quickly. Educate chauffeurs and drivers that are going to make a turn to the right to keep to the right, and those going straight ahead or making a left turn to keep to the left, if there is more than one line of vehicles going in the same direction. Try to make use of the whole street. If there is room for two or more lanes of travel see that all lanes are being used rather than using one lane and sending automobiles through it at a faster rate of speed.

Another phase of our traffic problem is the control of the parking of vehicles in those thoroughfares used for the passage of commercial vehicles or where traffice is extra heavy. In considering this, the commercial vehicle, the business vehicle, and the vehicle making ordinary stops have to be considered, so that rules and regulations relating to the amount of time they are allowed to stand in certain streets, have been adopted. There is only one way to meet these conditions, and that is a reasonable enforcement of all rules relating to such parking. Police officers are allowed certain latitude in letting persons stand for longer periods in emergencies, but all officers should remember the public expects a strict and impartial enforcement of the law. For him to allow indiscriminate parking on the part of some and a strict living-up-to-the-law by others, is bound to bring criticism and condemnation from both the public and his superior officers.

Persons seeking advice and direction from traffic officers should be treated with courtesy, and their questions answered as quickly as possible, consistent with safety. On this account, traffic officers should make use of every effort to learn the principal streets, location of buildings, large stores, and parks, also, the most direct roads to other cities and towns in the vicinity of Boston. Traffic officers must remember that they are assigned to an important duty, that time spent loafing or idly gossiping with citizens, especially women, will bring the censure of the public and their superiors if not dismissal from the Police Department.

Pedestrians as well as automobilists cause a great deal of trouble in the regulation of traffic and the control of motor cars in our city. For this reason, a large number of police officers are required to regulate traffic throughout the city and forcibly prevent the public from committing suicide or getting seriously injured.

There is nothing mysterious about the handling of traffic. There are no subtle lessons to be learned. The policeman who is intelligent and attentive to his duties, needs nothing further than actual experience in the place where his work is to be done. Use the signals adopted by the department and taught you in the police school, remembering that a signal properly given, with you looking at the person or vehicle for whom it is intended, is all that any average person requires. If you do this, you will find that in most cases, your signals will be obeyed and thereby do away with unnecessary misunderstandings which are the bulk of all our troubles with the travelling public.

If this principle is carried out, the work of the police will be that of enforcers of rules and regulations. Automobilists, chauffeurs, drivers, and pedestrians, once they learn their rights, are always ready to stand up for them and so become real regulators themselves. They will be the first to resent any infractions of their rights, and cause a lessening of those who attempt to override the rights of others.

While the traffic squad is primarily assigned to the handling of traffic, route officers should also be on the alert, doing all they can to facilitate traffic, especially at points where difficulty is experienced in preventing accidents or congestion. Traffic jams, indiscriminate parking, especially double parking, are conditions that no officer can pass up while on duty, and he must take action to relieve such conditions immediately.

Route officers with schools on their routes are required to attend the different sessions of such schools to see that children going to and from such schools are conducted safely across dangerous streets. They should take a position in the center of the street, be exceptionally careful to prevent children from crossing the street, except when all vehicular traffic has stopped. They should have previously had a talk with the principal or teachers attached to the school to learn the hours of commencing and dismissal, and have the teachers warn the children of the necessity of obeying the officer's signals, and to look for him when crossing dangerous streets. School crossings must be taken care of as the increase of school attendance requires more and more the protection and guidance of the police. This, with the care and protection of the aged and infirm are demanded of all police officers, whether on traffic duty or not, by tax payers and all superiors interested in police efficiency.

Traffic officers, route officers, or other officers, whether assigned regularly or temporarily to traffic duty, when handling traffic, must take a position in the center of the street. When signalling, they should be sure that their signals are distinct, looking toward the person receiving the signal and give such signals in time, so that he can obey the signal and understand what is required of him.

Where traffic is to be regulated, do not over-regulate it. If it is going along smoothly let it alone. Give everyone the most possible freedom of the streets, consistent with safety. Some police officers are detailed to assist traffic, but in reality they are retarding it. You have seen them. Their signals are mystifying, they wave their arms like windmills, and nobody knows what they want or what to do. Be careful about arguments with chauffeurs or teamsters. Nothing shows weakness more than such arguments. You have no right to rebuke or reprimand anybody for a violation of the law or traffic rules. You are given the authority to arrest a man for a violation of the law, but this does not give you the right to "bawl him out". If you are going to put a person into court do so; take his name, tell him what he has done, and let him go on. Have no arguments, because if you do, the driver or operator stops just so much longer, and that holds up the other traffic. Others are not interested in your talk with the violator.

In regulating traffic most everyone is with you except possibly those persons who will violate the law and the unruly element. All respectable citizens are with you. Do not get into the habit of bulldozing people. You can get just as much action by speaking to people in a firm, courteous manner, as you can by attempting to bulldoze them. Do not lose your temper, because if you do, you lose your effectiveness. Give your signals in time, select a driver far enough back so that he can readily obey your signal, and the cause of many arguments will be eliminated.

Traffic officers should remember that handling traffic is their most important duty, and that the apprehension of traffic violators is merely secondary. The put-you-in-court type of officer is in many cases, an obstructionist, like a military martinet, and the cause of much irritation and annoyance, when placed on important posts in charge of the city's traffic. The public's idea of police efficiency, in fact of a city's government, is often judged by the dignity, courtesy, firmness, and good nature of the traffic officer, because he is the first one with whom they come in contact as a representative of law and order. Remember that automobilists may be classed as quasi-violators of the law, and as such they should not be treated in the same manner you would treat a desperate murderer or gunman.

Chapter Thirty-Two

RIOTS, STRIKES & DISORDERS

The protection of life and property, and the preservation of the public tranquillity is one of the chief duties of an efficient police force. So any tumultuous gathering, a riot, or a disorderly strike is a police matter of first magnitude, not only because it is a breach of the peace, but the danger of it growing into a still greater proportion, which would result in an opportunity for those forces that are continually seeking a chance to overthrow and gain control of the government.

A riot may be described in a legal sense as, "A tumultuous disturbance of the peace by three or more persons assembling together of their own accords, with an intent to mutually assist one another against anyone who shall oppose them in the execution of some enterprise of a private nature, and afterward actually executing the same in a violent or turbulent manner to the terror of the people, and this, whether the act intended be of itself lawful or unlawful.

The causes that lead up to rioting are various. They are often caused by controversies over religion, politics, race prejudice, or labor troubles. Many riots have been caused by no more serious a condition than the arrest of a prisoner by a patrolman, and his friends attacking the officer with intent to effect his rescue. Serious riots have occurred where mixed races reside, when groups of both races take the law into their own hands, and literally try to exterminate each other, or destroy property.

For the purpose of classification, riots may be designated as spontaneous or incited.

The spontaneous riotous assembly is confined to a single locality or a limited district in a city, lacking organization, and without definite purposes, or a recognized leadership. A live sergeant, with a few patrolmen armed with nightsticks is usually sufficient to control a situation of this kind with little or no bloodshed.

The other kind is a premeditated and general uprising, covering or liable to cover the whole territory of a city; with definite purposes, and definite plans for accomplishing these purposes, and with its forces carefully organized, and often skilfully led. In such cases, the whole department should be thoroughly organized, with competent leaders and prepared for any emergency that might arise, and fully capable of controlling it.

The local riot may lead to a general riot, or riots may occur which combine the various elements of both; but from whatever cause they originate, or whatever class of people may compose them, all riots result in the forcible resistance of the enforcement of the law, and must be met with relentless vigor in its supression.

In the amount of force to be used, a humane official might be influenced by any of the following conditions: first, where the riot is participated in by persons who are usually law abiding, but are temporarily crazed by some real or fancied wrong; second, those participated in by persons who are wholly vicious and criminal; and third, those assuming the nature of a rebellion against lawful government, whether those concerned in it are of the criminal class or not. Though from a legal standpoint, all rioting of any class is the same, it is obvious that every restraint should be used to prevent the killing and injuring of the parties of the first class, while in the second or third class, there should be no such compunction, as they must be quickly met and disposed of. In all such cases of rioting, however, enough force must be used to restore peace, quiet, and tranquillity for the public.

Mobs, as a rule, are made up of cowardly and vicious persons. Not necessarily physical cowards, but moral cowards; moral cowards because of the consciousness of being wrong, or being unlawful. Beaten and energetically handled, the rioters find themselves deserted by their erstwhile friends, which will soon convince them of the futility of their lawless actions.

Every superior officer of his division and every patrolman on post, should know whether or not there is any ill feeling existing between the different races on his route or division, whether there is an acute condition existing between employers and employees, or any other dangerous situation that might result in a riot or disorder, taking the necessary precautions accordingly.

Clergymen, business men, political leaders, and other men of influence should be instructed to use their efforts to prevent trouble. If any condition arises, or is contemplated that they cannot control, which may result in disorder or a tumultuous gathering they should secretly notify the police.

When it is obvious that rioting or other disorder is about to take place, a live police official would be prepared to check it in its beginning. He should prevent all such gatherings and keep all persons involved on the move; he must not delay; a few stern words; if these are not heeded, then strike boldly and resolutely, showing all that he is capable of handling the situation.

Where there is a riot actually in progress, never vacillate or temporize with the mob, as there is nothing that emboldens them so much as a weak passive resistance. Make your attack a vigorous and relentless one, until the rioters are dispersed and broken up. In cases of this kind, you will find out that nine-tenths of the mob are just "Rubber necks", just persons attracted there by the excitement. They are continually getting in the way of the police and often give the rioters a false courage by their presence. These persons should be warned to disperse and move on as quickly and as quietly as possible.

Usually the police have some knowledge as to whether or not there will be a clash with the rioters. Commanding officers should be prepared to make dispositions accordingly. In the usual riot where the mob is not very thick or dense, a frontal attack should be made taking in the sidewalks and doorways in the advance, and driving everybody before them. All persons should be warned to disperse, but keep up a steady advance, as this has a demoralizing effect on a mob and will cause them to fall back. If this is energetically pushed through it will disperse the mob and end the trouble then and there.

In those riots of a more serious nature, where rioting has become general, enough men should be sent to the scene to fully control the situation. The police cannot afford to be defeated or beaten, as this would give the rioters double courage and incite them to still greater acts of violence and destruction. In these cases, dispositions of the police should be made beforehand, including not only the attacking line, but a strong support and flankers. If necessary, the police should be armed with shot guns, the flankers with rifles to pick off those who throw missiles or shoot from the windows or roofs.

The support can take care of those that break through the attacking line, and at the proper moment be utilized to complete the dispersing or bolster up the main attacking line.

It has been decided that a company of fifty men is the right size to take care of the average city street. This includes their own support and flankers. Where there is a mob of extremely large size and density, it would be well to have an additional company or force make an attack from one of the side streets while the main body is attacking from the front. This will tend to relieve pressure on the front,as the flank attack will break up those in the rear, as often as those in front cannot retreat because of the density of the mob in the rear. In cases of this kind, machine guns can be posted on roofs, in high windows, etc., covering the rear of the mob and picking off those who are not within reach of the attacking forces. A line of fire hose attached to a fire hydrant playing a stiff stream of cold water, has been effectively used to dampen the ardor of riotous bodies, while the use of tear gas by experienced officers taking into consideration the wind, etc., and thrown back far enough not to affect the police themselves, will be of great assistance in these cases.

Where a general riot is in progress, and the police are advancing to or in the attack, they should be cautioned that the first duty in this case is to successfully disperse the mob. Of course, all rioters are violators of the law and as such should be arrested and brought before the courts, but in a case of this kind, no official should allow his force to be weakened by officers making arrests until the riot has been broken up and the mob dispersed. There is an exception to this rule, however. In all riots, there is always a leader or leaders whom the rioters follow blindly. These men should be quickly identified and arrested. Mobs without leaders or whose leaders have been publicly humiliated, soon lose confidence, become demoralized and then disperse. The same applies to those remaining after the dispersing of the mob, they are generally the most aggressive among the rioters, and should be speedily arrested and taken to the station. This will usually break up and end affairs of this kind.

In Massachusetts, the courts are somewhat hazy as to just what constitutes a riotous gathering. It seems that a tumultuous gathering in Massachusetts consists of twelve or more persons riotously assembled and armed with firearms or clubs; or thirty or more of such persons so assembled and unarmed, who after being ordered to disperse by a sheriff, mayor, selectman, magistrate, or justice of the peace, fail to so disperse may be arrested without a warrant, etc. See chapter 269, sections 1 and 2.

If a riot is actually in progress, where they are using force against others, destroying property, etc., the police will be fully justified in meeting force with force and making arrests without awaiting for an official to order them to disperse (read the riot act). But it seems, where a riot has not actually commenced even though they be assembled for that purpose, the police cannot use force in dispersing them without one of the above named officials reading the so called "riot act", e.g., ordering them to disperse in the name of the Commonwealth. It seems before the police can use arms in such a case, it is necessary to have two of the above named officials to agree to it, and order them to disperse before we can use such force.

Before a riot commences, such persons may be arrested for an assault and battery, sauntering and loitering, disturbing the peace, etc., without a warrant without them being actually engaged in a riot. In all these cases, the police must use common sense in their handling to prevent a real riot from developing and getting into full force.

Probably one of the most flagrant contributory causes of riots and disorders is the ordinary "Labor Strike", sponsored and abetted by some labor organization.

Labor organizations are founded with the praiseworthy purpose of bettering the working conditions of their members by peaceable and legal means. The good intentions of these organizations are one thing, but the means adopted unofficaly by them to gain their ends, are another, and under some conditions, may become a serious problem in our every day life.

There is nothing illegal in the strike itself, as our courts have continually upheld the right of any person or workman to strike, that is to quit work, providing he makes safe any machine or appliance which is under his control. The courts also say, that he may approach any other person about to take his place, or any person who continues or desires to continue to work there, and tell him his grievance. But, he cannot threaten, intimidate, or assault any person who desires to continue to work in that place. He may maintain a peaceful picket in the vicinity of the workshop, provided he does not obstruct the sidewalk, or in any way interfere with the rights of others.

The employer, likewise, has his rights. He may employ whomever he chooses and whether or not they belong to any labor organization. He may set the hours of labor, and the wages unless prohibited by law. His property and those in his employ must not be molested, on their way to and from the place of employment.

As both sides of the controversy are generally acquainted with their rights, they only are interested in the law, in so far as it concerns infringing upon these rights. So they often criticize the police as being partial and unfair, because the police may be energetic in protecting either side. Under these circumstances, it is well for the police to establish the fact that they are strictly neutral in the controversy, not taking the side of either party concerned, and both sides realize that they are there to enforce law and order.

Where there is a strike of any magnitude, the division commander should immediately get in touch with the employer to find out what his complaint may be as to picketing and disorder. He should explain the law on this subject to him. He should warn the employer as to the kind of persons he is employing and enlarge upon the danger to his place of business and those employed by him, if he is resorting to employing "Gangsters", as this will surely result in disorder and trouble. He should make inquiries as to the routes of his employees in going to and from work, and also the routes taken by vehicles loaded with his goods, with the idea of taking measures to protect them in such routes.

He should interview the leaders of the striking organizations and explain to them their rights as to picketing, etc. Warn these leaders also about the employment of "Gangsters", and that any act of violence will not be tolerated.

He should be especially careful in instructing the police to remain neutral, and to prevent persons from congregating on the sidewalks to the annoyance of others, the law on assaults, malicious mischief, sauntering, and loitering, intimidating a workman, and disturbing the peace. They should above all, refrain from walking or talking with the strikers or appearing too friendly with the employers.

Sometimes where trouble is expected, it might be well to march a number of officers to the scene just to make a show and to place them at points of advantage. This will have a tendency to frighten the weaker spirits of the mob and often prevent trouble. Don't tell them you are going to do something that you know you cannot do, or have no legal right to do. Never try to "Bluff" a mob. If they call your "Bluff" and find out you have no intention to carry out what you said, they will surely become more lawless and disorderly.

You will find that the ruffianly element of the community are in their glory in an affair of this kind, and frequently cause the most trouble. Control these persons with a severe hand as they are entitled to no consideration.

It is important to remember in arresting for any of the offences committed under the heading of rioting, that either yourself or some other officer should be able to testify clearly and specifically as to just what each person arrested did, or was doing at the time of the arrest, which was an offence against the law. Do not bring persons into court just because they were present, unless they were ordered to disperse by some proper authority and failed to do so.

Finally, there is no better method of finding out the worth of a superior officer - an officer who can command men, - and who has quality so necessary for a good superior officer, "Leadership", than in an emergency of this kind. So it behooves every live police official that desires promotion to be prepared in these emergencies and to be able to handle the situation in such a manner as to bring the commendation of the public and the knowledge to higher officials of the department that he has done his work well.

Chapter Thirty-Three

THE POLICE AND THE INSANE

That insanity is a direct cause of many of our most atrocious homicides is being brought home to us every day in the year, when we learn or read of murders committed almost daily by our so called mentally sick. The fact that these persons should have been confined to some institution before these killings took place, often makes this subject one of criticism against the police.

Often citizens complain to the police of the peculiar actions of some person, either in public or private, and are greatly surprised when they are politely informed that the police can do nothing about the matter unless it is a criminal offence.

Of course, we can assist his immediate family or others who are legally responsible to have him committed by regular court procedure. But as insanity is not a crime, we have no authority to arrest and detain a person just because he may be insane.

A police officer cannot declare a person insane, and for him to arrest such a person without a warrant, merely for being mildly insane would make him liable for a false arrest. On the other hand, if such a person should suddenly commit some violent act, after the police had notice of his apparent insanity, the public would certainly criticize or condemn the police.

In modern countries, we are very careful about our laws governing the insane. Our laws are made just as much to protect persons from incarceration on an unjust charge of insanity as they are to provide means of committing those who are really insane to some proper institution. In the days of old, there have been many instances of persons being shut up in some asylum for the insane, when they were no more insane than the average sane person but the modern reaction is to prevent a repetition of such cases.

A police officer has no more right to arrest an insane person than any other person, but when such person commits a crime for which he could legally be arrested, the officer is justified in arresting him in the same manner as any other person. Once he is brought to court on a proper charge of crime, his sanity or insanity can then be quickly determined.

A police officer or even a private citizen can arrest a person who is so insane as to be dangerous to himself or others. To justify this, it must be a reasonable necessity going beyond mere insanity, because many who are insane are perfectly harmless. 108 Mass. 116.

Insane persons, before the courts and held for trial on a complaint or indictment, may be committed by the court to an institution to determine his sanity or insanity. G.L. 123 - 100A.

If a person is not before the courts on a criminal charge, and it is evident that he needs institutional care, he should be dealt with according to G.L. c. 123 - ss 59 - 61 inclusive, which sections provide for the commitment of persons who are insane after an application has been made to a proper court and a hearing has been given on the application.

In regard to persons dangerously insane, G.L. 123 - 78, provides that the superintendent or manager of any institution for the insane, may without the order of a judge required by section 50 - 51, receive into his custody and detain in such institution for not more than five days, any person whose case is certified to be one of violent or dangerous insanity or other emergency by two physicians qualified as provided in section 53, by a certificate conforming in all respects to this section, which certificate may be filed with a judge, as the certificate required by section 51. The officers mentioned in section 95, or any member of the state police shall, upon the request of the applicant or one of such physicians, cause the arrest and delivery of such person to such superintendent or manager. The person applying for such admission shall within five days cause the alleged insane person to be committed to or removed from the institution, and failing to do so shall be liable to the Commonwealth, in the case of a state hospital, or to the person maintaining the institution, in case of a private institution, for the expenses incurred and to a penalty of fifty dollars, which may be recovered in contract by the state treasurer, or the person maintaining the private institution, as the case may be.

G.L. c 123 - 79 provides, the superintendent or manager of any institution for the insane, may when requested by a physician, or by a member of the board of health, a selectman, or a police officer of a town, by an agent of the institutions registration department of Boston, or by a member of the state police, receive or care for in such institution as a patient, for a period of not exceeding ten days, any person needing immediate care and treatment because of mental derangement other than delerium tremens or drunkenness. Such request for admission of a patient shall be in writing, and be filed at the institution at the time of his reception or within twenty-four hours thereafter, together with a statement in a form prescribed or approved by the department, giving such information as it deems appropriate. Any such patient deemed by the superintendent or manager not suitable for such care, shall, upon the request of the superintendent or manager, be removed forthwith from the institution by the person requesting his reception, if he is not so removed, such person shall be liable to the Commonwealth or to the person maintaining the private institution, as the case may be, for all reasonable expenses incurred under this section on account of the patient, who may be recovered in contract by the state treasurer or by such person as the case may be. The superintendent or manager shall cause every patient, either to be examined by two physicians, qualified as provided in section

53, who shall cause applications to be made for his admission or commitment to such institution, or to be removed therefrom before the expiration of said period of ten days, unless he signs a request to remain therein under section 86. Reasonable expenses incurred for examinations of the patient and his transportation to the institution shall be allowed, certified, and paid as provided in section 74.

Under these circumstances, the only cases in which a police officer is justified in arresting an insane person are as follows:

(1) Where the alleged insane person is violating any law for which violation he can be arrested without a warrant.

(2) Where the arrest can be justified by necessity on the ground that the person arrested is so insane as to be dangerous to himself or others. 123c - 79.

(3) Upon application by one of the physicians or the applicant for commitment of any person when the person is alleged to be suffering from violent and dangerous insanity, where the conditions existing are certified to by two physicians as required under chapter 123 - section 78.

(4) Where an alleged insane person has escaped from any institution to which he has been confined. 123 - 95.

(5) Or an insane person who is on a leave of absence, or released in custody of his parents, relatives, etc., on the order of the superintendent or manager of the institution from which he was released, or a request from the parent, relative, friend, or guardian in whose custody he has been released, provided one year has not elapsed since such release. 123 - 88.

Some criminologists like to create the idea that all criminals are insane or mentally deficient. Others assert that the percentage of mental deficiency among criminals is no greater than in any other section of society. However, it is certainly a fact that all feebleminded persons are potential criminals.

Our laws fail to give any exact definition of feeblemindedness or mental deficiency. Generally speaking, feeblemindedness means imbecility, impaired mental faculties, or mental impotence.

The characteristics of mental deficiency are early manifested by the conduct and general attitude of the child. He is mean, cruel, violent, irritable, and deceitful. He is susceptible to truancy, and other forms of childish delinquency. As he grows older, and is more in contact with society, it becomes obvious that he is mentally deficient. The rules of social conduct mean nothing to him, and his dominant feature is love of self. He soon learns that he has small chance of making good in legitimate pursuits, and as he wants to be a "Big shot" somehow, he turns to criminality as his chance to "Shine". Usually, his first attempt is to try to make himself an invaluable member of some gang by doing dangerous jobs and thus show himself off as a hero in the eyes of the lesser lights in the gang.

Girls and women who are mentally deficient submit readily to the desires of others. They are easily seduced, have no control over their passions, and the life of the prostitute appeals to them as an easier way of making a living than that of hard work. Then again, they are quick to become followers of male criminals, and readily join in the furtherance of any of their criminal activities.

The more mentally defective the subject is, the more senseless or foolish the kind of crime he will commit. For instance, pyromaniacs: they burn for no particular reason other than the excitement caused by fire engines running through the streets or the cries of persons whose lives may be endangered by their crazy acts. Then again, kleptomaniacs: who steal things of no particular value to them but who have an irresistible impulse to steal something.

The mental defective seldom plans crime that calls for real mental effort, real skill, such as forgery, embezzlement, holdups of banks, etc., and other crimes of a like nature. He is beyond the capability of this type, unless he is being used by the more astute criminal in some minor part in its commission.

Among mental defectives, you will always find a lack of judgment, control in their sexual habits. There will be promiscuity of intercourse, little discrimination in choosing a husband or wife, no particular forethought concerning the results of such intercourse, whether it applies to disease or bringing children into the world. So we find many cases of non-support of family or children, illegitimacy, and a high rate of venereal disease wherever mental deficiency is found.

INSANITY:

Is a mental distortion or disorder, brought on by disease, shock, overwork, worry, strain, or a person's utter inability to fit into the social order of his community.

The inability to fit into the social order of his community seems to be the most common cause of insanity today. Feeling that everyone is against him or does not understand him, that he cannot gain the purposes in life he desires are a few common causes of insanity. Business worries and strain, worry over money matters, worry over children, worry over sickness and mental condition, etc., are other causes of insanity.

IDIOT:

A mentally defective person whose mental age never develops beyond that of a child of 36 months is an idiot.

This class is rarely ever able to take care of themselves, either physically or personally. They can be taught nothing and the instinct of self preservation is often lacking.

IMBECILE:

A mentally defective person having the intelligence of a child between the ages of three and seven years is an imbecile. Usually they can take care of or defend themselves, and simple acts requiring no mental effort or judgment are not beyond their capabilities.

MORON:

These are the highest class of mental defectives. They have the mental age of a person between the ages of seven and twelve years. They are the most numerous and are capable of taking care of themselves and doing useful work. Given tasks to do under supervision, or running some simple machine, they will get by and be happy until they die, but they are incapable of creating anything through any intellectual effort.

Idiots, imbeciles and morons lack something in mental capacity, and it usually manifests itself at an early age. The insane are suffering from a breaking down of faculties they once possessed, the others suffer from a lack of such faculties. Insanity is usually a disease of old age, after forty as a rule; feeblemindedness usually starts at birth, or shortly after birth from a disease or injury that prevents full development of the mental faculties. Insanity may be cured by proper treatment and care, for feeblemindedness there is no cure. Insanity may come on in an instant and usually requires immediate institutional care, while the idiot, imbecile, or moron may be permitted to remain at large.

In this state, no person can be convicted of a crime, if he is an imbecile, an idiot, a lunatic, or insane person, provided he does not know the nature of the act or the fact that he is doing wrong. In law, a child under seven cannot be convicted of a crime, so it is easy to understand why an idiot with a mentality of a child not beyond three years, and an imbecile with a mentality that does not exceed that of a child of seven years, cannot be convicted of a crime.

Sometimes the police have occasion to handle a child of six years who has the mentality of a child of ten years. This child cannot be convicted of any crime no matter what is its knowledge, or mental capacity, because it is under seven. On the other hand, in many cases we might arrest a full grown man of thirty years and he would have the mentality of a child of six. In such cases, we would investigate and find out whether or not this man could understand the nature of his act and if so, that it was wrong.

In mental responsibility the test is, (1) is there a mental derangement or deficiency, and (2) as a result of this deficiency did he know the nature of the act he committed, or that it was wrong? These two requirements must go together. What is meant by the nature of the act: case - In an atrocious killing, the insane murderer had no recollection of choking a person to death and then hacking the body up with a knife and an axe. He certainly could not be held responsible because he did not know the nature of the act, as he was insane.

To excuse a crime on the ground of insanity, the culprit must have been insane at the time of the act's commission. If he was insane before the act, but was sane when he committed the act, it is no excuse, or if insanity develops after he commits the act.

All persons coming before the court are presumed to be sane. If the defendant wishes to raise insanity as a defence, he must offer evidence of his insanity. It then becomes the duty of the government by relevant evidence to prove that he was sane. Remember, he must offer proof of his insanity, otherwise the government is not required to rebut it because of the presumption that all persons are sane.

Where a person is acquitted on account of insanity, the court usually inquires into the matter, and if he is dangerously insane, he is committed to the Bridgewater State Hospital for the Criminal Insane. He cannot be convicted of a crime if he was insane at the time of committing it. If he was insane at the time of the trial, but sane at the time of the commission of the crime, he cannot be tried or sentenced until he again becomes sane. If, at some future time, he again becomes sane, he may be tried and sentenced if found guilty.

The handling of insane persons is indeed a difficult problem for the police, on account of the natural unwillingness of the families or friends to have the person committed. However, we are continually reminded of the fact, that many of these persons are a menace to the community at large, and should have been put under safe keeping when we learn of the many atrocious acts committed by them. The officer's duty is to the public, to protect them from such conditions, and when it becomes noticeable that a person is so insane as to be dangerous to himself or others, there should be no hesitation on the part of the police as to having him taken care of by the proper authorities, and there is ample law cited above to do this.

Chapter Thirty-Four

RADIO CRUISING CARS

The "RADIO CAR" to both the police and private citizen is known as one of the most important additions to any police department in the prevention of crime. It has proven itself to be one of the most efficient weapons of the police in the catching of gunmen, burglars, safecrackers, automobile thieves, hit-and-run drivers, drunken motorists, suspicious persons, etc.

Under present conditions, the advantages of these cars are many, especially so in the thinly populated or outlying districts. They cover four or five times as much area as the man on foot. In responding to alarms, they are so much faster than the man on foot that there is no comparison. In an emergency, they can assist injured persons to their own home or the hospital, make arrests, and bring prisoners to the station without calling the wagon or an ambulance.

Speed is a big factor in catching criminals today, so the speed in which a radio car can be despatched to the crime scene is of distinct advantage.

(1) It certainly helps to prevent crime.

(2) The chances of detecting and capturing criminals while actually committing the crime are increased, thus relieving the department and the courts of the time necessary to build up and secure the necessary evidence to secure a conviction.

(3) When a crime is committed and the criminals escape, these cars arrive so quickly that they are enabled to secure witnesses who actually saw the crime committed before they go away and forget what they know or saw at the time, thus preventing the loss of time necessary to locate these persons and also the perpetrator.

The following are examples of the efficiency and mobility of our radio cars:

A citizen saw a car being loaded with goods and driven off from a store late at night. He called headquarters giving the description of the car and the men in it. A cruising car was immediately despatched to the vicinity and in five minutes had the car and its occupants with a load of valuable merchandise just stolen from the store in question.

Someone telephones to headquarters that there is trouble in a certain store. A car is despatched, and on the way to the store they see a man running down the street from the direction of the store, the extra man in the car jumps off and apprehends him, while the driver continues on to the store and finds that there has been a holdup, and the proprietor shot and in a dying condition. The arrested party was brought to the store and quickly identified by the proprietor as the person who shot him, and which brought about the arrest of two others and the cleaning up of a gang that was terrorizing the neighborhood.

Recently a citizen telephoned to headquarters that there was a suspicious light in a certain building. A cruising car was sent immediately and arrived in time to put out an incendiary fire that would have no doubt burned up thousands of dollars worth of goods, and in so doing got enough evidence to convict the perpetrators in court.

A shop-keeper became suspicious of a man hanging around his store, and telephoned to headquarters; a car was immediately despatched, the suspect caught about to go away in a car, taken to headquarters where his fingerprints were checked upon, and it was found that this man was wanted for several holdups in other parts of the city and neighboring towns.

From all this, we can readily see that radio broadcasts of orders to radio car operators, is a new, swift, and deadly war on crime. Its cost in relation to the time saved in investigations, following cold trails is very small. Then again, the fact that criminals caught in the act usually plead "guilty", and with this new weaponwe are catching them in the act, is bound to act as a crime preventative, especially in robberies and burglaries, and meet with the approbation of the public.

The headquarters organization is staffed by members of the police department, all especially trained and licensed operators.

In the radio broadcasting room is a system of maps of the various police divisions of the city which are subdivided into zones in which a lettered car operates. By a system of markers, it is known at all times whether or not a given car is on patrol, answering calls, making repairs, changing oil, or mechanically disabled. Radio cars and sets get rough treatment, considering that they are driven 24 hours a day by three shifts of operators, but at the slightest loss of efficiency, repair men are sent out to tune up or make repairs while the car remains on the job.

Receiving a call, let us say, regarding a holdup, the despatcher can tell at once what cars, whether on that division or not, are likely to be the nearest to the address or place given. This is immediately broadcasted to the car or cars in question, and they are speeding on their way to the scene of the crime in a few seconds. Often there is a report back with the culprit captured in less than a minute.

Each radio car is usually manned by two men, the operator and the observer. Officers detailed to this kind of work should be picked men, men of unquestioned courage and activity who are not apt to lose self control in any emergency. They should be thoroughly instructed in the use of weapons carried in the car: namely, riot guns, shot guns, tear gas, bullet proof vests, and in addition, be experts or at least qualified marksmen with the pistol or revolver.

The operator should be held responsible for the care of the car as to gas, oil, water, etc., prevention of accidents, and proper driving and patrolling. The observer should be on the alert for anything of police importance happening during their tour of duty. He is the one to receive messages, answer all calls from the despatcher, noting the time of receiving and answering thereto. He is the one to make investigations and reports. Both should be held responsible for all equipment and weapons assigned to the car.

The first thing to be impressed on officers doing radio car duty is "team work". They both should be armed with the regulation police revolvers, clubs, and pocket search lights. The car should be equipped with a shot gun, gas bombs, gas billy, and a flood light. If they are in civilian clothes, the revolver should be carried in the outside coat pocket or in a shoulder holster.

While the car should never be left unattended, still the operator must remember he is a police officer just the same as his side partner, and at all times be prepared to render assistance to him in any emergency.

Every officer detailed on this important work should if he has not already done so, familiarize himself with the different makes, styles, models, and their characteristics, so that they can readily identify such cars on the street, if they are wanted without bothering every other car that comes along.

When the operator approaches a suspicious car parked at a curb, he should slow down as he nears it. The observer should be ready to get off the car just as it approaches the parked car, and move quickly to the right side of the suspected car. He should never get in front of this car so as to give them a chance to run him down or prepare to give battle.

If there are occupants in the rear seat, it is a good plan to remain back, covering them from where you can keep an eye on those in the front seat. If you get too far forward, you may get in your partner's line of fire, or prevent him from being any help to you.

In the meantime, the operator of the police car should drive his car slightly in advance of the other machine, so that one wheel will block any move on the part of the other car to go out ahead.

He should then cover the driver of the suspected automobile. The positions should now be - the operator of the police car in front of the suspected car, covering the driver and watching for any false moves of those in the rear. The observer is on the right side of the machine, facing those in the front and rear seats, and they then do their questioning or searching as the case may require.

Never search men in a car. If you do, you are giving them golden opportunities to do you an injury, or be taken off your guard.

Make them step out of the car, the ones in the rear seat first. See that everyone of them has his hands out of his pockets and remind them to keep them out. Don't let them back out of the car. Keep them facing you.

When the occupants of the car are on the sidewalk, the operator then comes around to help in the searching or making of arrests as required. One officer should do the searching work from behind the person being searched, while the other is in front covering them all with his revolver. Of course, this applies to those cases where you are practically sure you are dealing with tough characters, gunmen and the like.

When working alone no officer should ever attempt to search or "shake down" a suspect while standing in front of him. If he does so, he greatly increases his chances of being hurt, should the suspect turn out to be a "bad actor" and seize such an opportunity to make trouble. In such a case, the officer is at a great disadvantage. Always search a man from behind as you may never know what he may turn out to be.

There are numerous ways in which a suspect can injure you if you search him from the front. If you are standing upright, he may stick his fingers in your eye or raise his knee with force into your crotch. In bending over to search his trouser leg for a weapon, he may quickly raise his knee into your face, hitting you in the back of the neck to make the blow more severe.

If you draw your revolver and face a suspect, be cautious. Be sure you hold your gun in such a manner that he cannot get a hold on it or take it away from you. Stand far enough away from him so that he cannot grab it. Stand with your gun in your right hand resting on your hip and pointing toward him, and your left hand in front ready to block any move he may make.

After you "shake him down", it is good policy to still hold your gun in the right hand on your hip, and pointing directly at him ready to fire if necessary and your left hand always ready to block off any blow or attempt to seize the gun. Never point your gun directly at a man with the arm extended, when you are close enough for him to grab it. It is an open invitation for him to grab it and take it away from you. Take an aiming position when he is running away or some distance from you.

When you are chasing a suspicious car, do not be too anxious to shoot, even if the occupants refuse to stop at your command. If they keep going and are not shooting at you, it is a good idea to wait until you can get at close range, especially if you are in a district where there is a possible chance of hitting innocent people. Of course, no officer should shoot in these cases unless a serious felony has been committed. A wild shot might kill the driver and cause an uncontrolled car to wreck other cars and injure innocent people.

You may think of shooting at a tire. Remember it takes a very good shot to hit a tire on a fleeing automobile, especially if you are in a moving car yourself, and the result may be a wrecked car or injury to bystanders. Wait until you are at close range, and then aim at the gas tank, if possible, a much larger target; but try to hit it near the bottom so that all the gas will drain out. When a fleeing car is compelled to stop, be careful. Be prepared for any emergency. One officer should jump out and approach the car from the right rear, and the operator should continue on the left side to a position as described above. Both should be prepared for anything, and if shooting is necessary, they both are in a proper position for best results.

It is not too much to look forward to, to the day when all officers will be equipped with a radio set as a part of his equipment, whether on foot or in automobiles. This will result in thousands of policemen not only being informed of crimes committed nearby, but they can receive general alarms regarding suspects wanted, crime cars in flight, etc.

Then another problem for the future will be the airplane in crime. This is not so far distant, and will be an inevitable crime problem of future and we must be prepared to meet it when it comes.

So with all that has been said of the radio car, we can all readily see that they are an important part of our police equipment, and all officers detailed on this work should be excellent chauffeurs, and have a working knowledge of the mechanism and care of radio equipment and other accessories attached to these cars.

Radio cruising cars are always equipped with weapons and other valuable property, so the operator should always be in his car; but in emergencies, it may be necessary for him to leave the car. In such cases, the car should be locked or have some reliable person watching the car. Care must always be taken to guard the radio mechanism from accident or injury, so as to be always ready to receive an alarm.

Chapter Thirty-Five

EXTRADITION AND INSTERSTATE RENDITION

Police officers in their pursuit of criminals, often have to resort to interstate rendition or extradition to bring back fugitives who have fled from this state to another state or country.

It is a problem of vital importance to the police and the public to be able to bring such fugitives back to stand trial for their crimes. We have in this state recently passed new legislation regarding extradition and rendition, and it is necessary for all police officers to have enough knowledge of this procedure to be able to handle such cases efficiently and at the same time preserve the good feelings that should exist between the executive authorities of the states and protect society and the individual.

The process of demanding and giving up a fugitive from justice, if between this country and another foreign power is called "extradition". If it is between states or territories it is called "rendition". If it is the returning of a fugitive from one Federal jurisdiction to another it is called "removal". However, the common term for all three is "extradition".

EXTRADITION:

The surrender or delivery, upon demand or request, of an alleged criminal by one state or sovereignty to another state or sovereignty having jurisdiction to try the charge made against the person so surrendered or delivered.

FUGITIVE FROM JUSTICE:

A person who, having committed a crime in one state or country, flees to another state or country to evade arrest, or to escape punishment for his crime:

In "extradition" between nations, there must be a treaty between such nations, and only such crimes as are agreed upon are extraditable. In these cases, the U.S. government is supreme, and the "extradition" is handled by them without any reference or consent of the affected state. In international "extradition" the demand must be accompanied by evidence; first, that he is charged with a crime and second, with enough proof to make out a prima facie case, showing the crime charged was actually committed. In these cases, the fugitive can only be tried for the crime he is extradited for, and it must not be a political crime.

"Rendition" between states is governed solely by the U.S. Constitution and the U. S. laws carrying it into effect. In these cases, the states are supreme, and it is carried on without consent or interference by the U.S. Government. Between states only a charge of crime on an indictment or an information on an affidavit is essential. Any crime that is indictable may be sufficient cause to surrender a fugitive. and in Massachusetts all crimes are indictable. After he is surrendered to the demanding state and brought back, he may be tried for any crime other than that he was surrendered for. There is no bar for surrendering fugitives for political offences between states.

Nearly all states have passed the new "Uniform Interstate Rendition Act". They have passed these laws with the idea of being just and courteous with the executive authority of other states, and at the same time protect the rights of the stranger who may be a fugitive from justice.

Generally speaking, "extradition" is not a difficult matter; but certain formalities must be lived up to before it can be accomplished by a demanding state.

The following are the rules on interstate rendition in our state:

Every application to the Governor for a requisition upon the executive authority of any other state or territory for the delivery of and return of any offender who has fled from the justice of the Commonwealth must be made by the ATTORNEY GENERAL or the DISTRICT ATTORNEY for the county or district in which the offence was committed, and must be in duplicate original papers or certified copies thereof.

The following must appear by the certificate of the attorney general or district attorney:

(a) The full name of the person for whom extradition is asked, together with the name of the agent proposed, to be properly spelled.

(b) That, in his opinion, the ends of public justice require that the alleged criminal be brought to this Commonwealth for trial, at the public expense.

(c) That he believes he has sufficient evidence to secure the conviction of the fugitive.

(d) That the person named as agent is a proper person, and that he has no private interest in the arrest of the fugitive.

(e) If there has been any former application for a requisition for the same person growing out of the same transaction, it must be so stated, with an explanation of the reasons for a second request, together with the date of such application as near as may be.

(f) If the fugitive is known to be under either civil or criminal arrest in the state or territory to which he is alleged to have fled, the fact of such arrest, and the nature of the proceedings on which it is based must be stated.

(g) That the application is not made for the purpose of enforcing the collection of a debt, or for any private purpose whatever; and that, if the requisition applied for be granted, the criminal proceedings shall not be used for any of the said objects.

(h) The nature of the crime charged, with a reference, when practicable, to the particular statute defining and punishing the same.

(i) If the offence charged is not of recent occurrence, a satisfactory reason must be given for the delay in making the application.

(1) In all cases of frauds, false pretences, embezzlement, or forgery, when made a crime by the common law, or any penal code or statute, the affidavit of the principal complaining witness or informant, that the application is made in good faith, for the sole purpose of punishing the accused, and that he does not desire or expect to use the prosecution for the purpose of collecting a debt, or for any private purpose, and will not directly or indirectly use the same for any of said purposes, shall be required, or a sufficient reason given for the absence of such affidavit.

(2) Proof by affidavit of facts and circumstances satisfying the Executive authority that the alleged criminal has fled from the justice of the state, and was in the state where the alleged crime was committed at the time of the commission thereof, and is found in the state upon which the requisition was made, shall be sufficient evidence, in the absence of other proof, that he is a fugitive from justice.

Note: under chapter 276 section 14, New Interstate Law, if a person was in this state or in a third state, and intentionally committed an act resulting in a crime in the demanding state, it is not necessary to prove his presence in the demanding state.

(3) If the indictment has been found, certified copies, in duplicate, must accompany the application.

(4) If an indictment has not been found by a grand jury (lower court warrant) the facts and circumstances showing the commission of the crime charged, and that the accused perpetrated the same, must be shown by affidavits taken before a magistrate. (A notary public is not a magistrate within the meaning of the statutes.) It must be also shown that a complaint has been made, copies of which must accompany the requisition, such complaint to be accompanied by affidavits to the facts constituting the offence charged by persons having actual knowledge thereof, and that a warrant has been issued, and duplicate certified copies of the same, together with the returns thereto, if any, must be furnished upon an application.

(5) The official character of the officer taking the affidavit or depositions, and of the officer who issued the warrant, must be duly certified.

(6) Upon the renewal of an application, for example, on the ground that the fugitive has fled to another state, not having been found in the state on which the first has been granted, new certified copies of papers in conformity with the above rules, must be furnished.

(7) In the case of any person who has been convicted of any crime, and escaped after conviction, or while serving his sentence, the application may be made by the jailer, sheriff, or other officer having him in custody, and shall be accompanied by certified copies of the indictment or information, record of conviction, and sentence upon which the person is held, with the affidavit of such person having him in custody, showing such escape, with the circumstances attending the same.

(8) No requisition will be made for the extradition of any fugitive, except in compliance with these rules.

Suppose that B is indicted in Boston for a felony, and he has left the state, later on he is located in another state. You are the officer in charge of the case. What is your duty in this matter?

The first thing to do is to get in touch with the district attorney to find out if he will make a requisition for the accused. Do not have the accused arrested in another state, and then have to telegraph "Release John Doe, cannot extradite, am sorry". If the district attorney agrees to extradite, get exemplified copies of the warrant and indictment or, if on a lower court process, an exemplified copy of the complaint and warrant. Then go to the Bureau of Records at Headquarters, give them your information as to where the accused may be found, with his description and pedigree. A letter is then sent to the city or town where he is located, with such copies enclosed, and the police have little difficulty in obtaining a fugitive warrant or other authority to arrest your man. If it is an emergency case where an immediate arrest is necessary, a telegram may be sent to the police of such city or town giving the man's description, where he may be found, the details of the offence, the charge, and that a warrant has been issued for his arrest, and that certified copies of such warrant, indictment, or complaint will be forwarded in the next mail, etc.

When the fugitive is arrested, get in touch with the district attorney's office as soon as possible, so that you can give all the information necessary to make out the requisition papers in conformity with the law. If you are the officer selected to act as agent in the case, you then take these papers to Secretary of State, who will refer you to the Attorney General, who will look over the papers to see that they are regular and in conformity with the above rules. If so, you are then sent to Secretary of the State who will present your papers to the Governor, and he will issue his warrant requesting the rendition of the accused, and name you as a proper agent to receive such party.

You then take the requisition papers to the district attorney's office and they are sent to the capitol of the state from which the defendant is to be extradited. If he waives extradition, your work is much simplified and you may return with the accused at your leisure; but most states have adopted the New Interstate Rendition Act, and under this law it is necessary to bring him before some court to let him officially waive his rights, before you can legally take him out of the rendering state. You must have a signed copy of this waiver or consent with you to show you have legally received him.

However, if the accused desires to fight extradition, he can demand a hearing before the governor of the state he has been arrested in, and in this case you will have to appear at the capitol of that state to represent the Commonwealth of Massachusetts, unless some district attorney is sent with you, and he takes over the case.

The accused may be represented by counsel and the proceedings then assume the nature of a judicial hearing. In your testimony, you are not required to show that the accused is guilty of the crime charged, but you are bound to prove the following facts:

(1) That you are the person named in the requisition papers as agent, authorized by the governor of Massachusetts and that the papers are regular.

(2) That an offence was committed in Massachusetts, and that an affidavit has been made naming the accused as the person committing it.

(3) That the accused was in Massachusetts at the time that the crime was committed, or that such person committed in the rendering state or in a third state an act intentionally resulting in a crime in Massachusetts. 276 sections 13, 14.

After proving these facts, unless the accused can produce evidence, rebut or refute this testimony, extradition is usually granted.

The governor has discretion in this matter even though the Constitution of the United States says, "Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state of the Union."

No matter how strong the facts may be in favor of the granting of extradition, the governor may still refuse to grant it, and there is no more you can do. You may feel that you have done your full duty in the matter and all that is left for you to do is to come back without your man.

Do not think because you were refused extradition that you are justified in getting your man anyway. If you try to force him out of the state, you are a kidnapper in the eyes of the law and liable to all fines or imprisonment that the law provides in that state. DON'T VIOLATE THE LAW IN ENDEAVORING TO ENFORCE THE LAW.

If your requisition is granted and you have arrived in Boston with your prisoner, immediately take him to the Superior Court or the court from which the warrant was issued if it is in session, make your return on the warrant and give it to the clerk. If the court is not in session, bring him to the Charles Street Jail and turn him over to the person in charge, making your return on the warrant. Then make your return on the governor's warrant and return it to the governor's office.

Once a man has been brought back from another state, on a requisition from the governor, he may be tried on the charge for which he was indicted or for any other charge.

A person who commits a crime in this state and leaves it no matter if on legitimate business, is a fugitive from justice, but he must have been actually present at the time of the commission of the crime, or committed an act in another state intentionally resulting in a crime in Massachusetts. This also applies even if he left the state involuntarily.

If the proceedings are carried on between the United States and a foreign country, which is true "Extradition", the transactions are more difficult.

(1) There must be a treaty between that nation and the United States in regard to extradition and the kind of crimes it will grant extradition to.

(2) In no case will the United States grant extradition or seek the extradition of a person who has committed a political offence.

(3) A person who has been extradited from a foreign country can only be tried for the offence for which he was extradited and no other. Unless he had sufficient time to leave this country and fails to take advantage of it.

The papers are much similar to those used between two states and must be issued in triplicate original papers. Such papers must set out a prima facie case as follows:

(1) The charge against the accused; i.e, that he, James F. Doe, alias Fred M. Roe, from about January 14, 1928 to January 18, 1938 in the city of Boston, Massachusetts,

First, committed forgery of orders for money; to wit, American Express Company Travelers Checks, and

Second, knowing that the said American Express Travelers Checks were forged, used, dealt with, and acted upon them as if they were genuine.

It will be necessary to present to the court of the nation in which the accused is arraigned for a hearing:

First: Deposition of a principal witness in Boston who is aware of the veracity of the charge, preferably by a witness who cashed a check. This must be sworn to and authenticated by the Secretary of the United States.

Second: The warrant for the arrest with a return on it that the man could not be found within the officer's precinct. (non inventus)

Third: A sworn declaration that the accused is a fugitive from Massachusetts.

Fourth: A petition from the District Attorney of Boston requesting extradition.

Fifth: A petition addressed to the President of the United States by the Governor of Massachusetts requesting extradition.

Sixth: Authorization of the President of the United States, naming you as the agent, a police officer of Boston, Massachusetts.

Seventh: A copy of the law of Massachusetts regarding the offence, "Forgery and Uttering" as quoted in the first paragraph herewith.

Extradition is in its nature a diplomatic matter between nations, and is generally handled by the diplomatic representatives of both nations, and the police officer is merely an agent or messenger appointed by the President to bring the fugitive back if the requisition is granted.

The term "executive authority" means the governor or any other person performing the functions of governor in any state.

In international "extradition" the warrant is signed by the Secretary of State issued in the name of the President. In interstate "rendition" the warrant is signed by the governor unless the arrested person waives his rights. In "removal" proceedings the warrant is signed by U.S. District Court judge. In "rendition" proceedings with Porto Rico, Virgin Islands, Alaska, Canal Zone, Hawaii, Guam, Phillipine Islands, etc., the warrant is signed by the Governor General or other Executive Authority. If it is the District of Columbia, the Chief Justice of the Supreme Court of the District of Columbia signs it. Note: this is not the Chief Justice of the Supreme Court of the United States.

Never go after a prisoner in another state unless you have the proper requisition papers. Never take him out of another state without proper papers. He may be willing to waive his rights and go along with you, but remember you have no authority as a police officer outside Massachusetts unless you are acting under proper rendition proceedings. If you act without papers, he may change his mind at any time before getting into this state and you can do nothing to prevent his getting away from you. He is not your prisoner and you cannot handcuff him or do anything to prevent his escape. Always have the necessary papers even if he is willing to come back without them, especially so when you must cross other states to get him back here.

(1) A "fugitive" may be arrested at any time or place within the Commonwealth on the Governor's warrant of rendition based upon the requisition from the Executive Authority of the state where the crime was alleged to have been committed. When arrested on a Governor's warrant, the arresting officer should notify him of his right to a writ of "habeas corpus" and in addition the officer must bring him before a court of proper jurisdiction, where the judge must again warn him of the charge against him, the demand for his surrender, his right to employ counsel, and his right to apply for a writ of "habeas corpus" and allow time for him to make such application if he so desires.

(2) He may be arrested before such requisition papers arrive, on a warrant issued by any justice of our courts in this Commonwealth, on the oath of any credible person before such court or justice authorized to issue warrants in criminal cases, charging him with the commission of a crime in another state, or on the affidavit of any credible person in another state and brought before any court to answer to the charge.

(3) An arrest can be made by any officer authorized to serve criminal process without a warrant upon reasonable information that the accused is charged with a crime punishable by death or imprisonment for over one year committed in another state, but he must be brought as soon as practicable before a court to answer to the charge made.

When the prisoner is not arrested upon the Governor's warrant he may waive the issuance of the Governor's warrant and consent to return to the demanding state, as follows:

(a) By subscribing to such waiver in the presence of any court or justice of this state authorized to issue criminal process.

(b) Such court or judge must inform the prisoner of his rights:

(1) To the issuance and service of a warrant in interstate rendition and to obtain a writ of habeas corpus.

(2) When such consent has been duly executed, it shall forthwith be forwarded to the office of the Governor and filed therein.

(c) If he signs the waiver, he is then turned over to the officer of the demanding state with a copy of this consent. 276 - 20 J.

Note: Any officer who delivers over to said agent a person in his custody under the warrant of the Governor in wilful disobedience to G.L. 276 section 19, $1000 fine or six months imprisonment, or both.

Note: There is no law preventing a person from returning to a demanding state voluntarily without formality, but if he is arrested on a "fugitive warrant" or a "governor's warrant" the procedure must comply with chapter 276, 16, 17,

EXTRA-TERRITORIAL ARREST ON FRESH PURSUIT: G.L. 276, Section 10A. Any member of a duly organized state, county, or municipal peace unit of another state of the United States the laws of which contain provisions substantially equivalent to the provisions of this and the following section, who enters this commonwealth in fresh pursuit, and continues herein in such fresh pursuit, of a person in order to arrest him on the ground that he has committed a felony in such other state shall have the same authority to arrest and hold in custody such person as members of a duly organized state, county, or municipal peace unit of this commonwealth have to arrest and hold in custody a person on the ground that he has committed a felony in this commonwealth. This section shall not be construed so as to make unlawful any arrest in this commonwealth which would otherwise be lawful.

Section 10B. If an arrest is made in this commonwealth by an officer of another state in accordance with the provisions of the preceding section he shall without unnecessary delay take the person arrested before a justice, associate justice or special justice of a court of record in the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If such justice, associate justice or special justice determines that the arrest was lawful he shall commit the person arrested to await for a reasonable time the issuance of a rendition warrant by the governor of the state from which he fled. If such justice, associate justice or special justice determines that the arrest was unlawful he shall discharge the person arrested.

Section 10C. If any part of sections ten A and ten B is for any reason declared void, it is declared to be the intent of said sections that such invalidity shall not affect the validity of the remaining portions of said sections.

Section 10D. Sections ten A to ten C, inclusive, may be cited as the uniform extra-territorial arrest on fresh pursuit law, and shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of the states which enact similar laws.

Section 2. As soon as practicable after this act has the force of law, the state secretary shall certify a copy thereof to the executive department of each of the states of the United States.

AN ACT MAKING UNIFORM THE PROCEDURE ON INTERSTATE RENDITION

G.L. 276, Section 11. Wherever appearing in sections eleven to twenty R.,inclusive, the term "governor" includes any person performing the functions of governor by authority of the law of this commonwealth, the term "executive authority" includes the governor, and any person performing the functions of governor, in any other state, the term "surrender" refers to the arresting and delivering up of a person in this commonwealth to the executive authority of another state, and the term "state", referring to a state other than this commonwealth refers to any other state or territory, organized or unorganized, of the United States.

Section 12. Subject to the provisions of sections eleven to twenty R., inclusive, the controlling provisions of the constitution of the United States, and any and all acts of congress enacted in pursuance thereof, the governor may cause to be arrested and delivered up to the executive authority of any other state any person charged in such other state with treason, felony or other crime, or with having been convicted of a crime in such other state and having escaped from confinement or having broken the terms of his bail, probation or parole, who is found in this commonwealth.

Section 13. The governor may also surrender, on demand of the executive authority of any other state, any person in this commonwealth charged in such other state in the manner provided in section fourteen with committing an act in this commonwealth, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, hereafter in this section and in sections fourteen to twenty P. inclusive, referred to as the demanding state, and provisions of sections eleven to twenty R, inclusive, not otherwise inconsistent shall apply to such cases, even though the accused was not in the demanding state at the time of the commission of the crime.

The governor may surrender, on demand of the executive authority of any other state, any person in this commonwealth charged in the demanding state in the manner provided in section fourteen with having violated its laws, even though such person left such state involuntarily.

Section 14. No demand for the interstate rendition of a person charged with crime in another state shall be recognized by the governor unless it be in writing alleging either that the person demanded was present in the demanding state at the time of the commission of the alleged crime, or that such person committed in this commonwealth or in a third state an act intentionally resulting in a crime in the demanding state, or that such person has escaped from confinement, or has broken the terms of his bail, probation or parole, nor unless such demand is accompanied by a copy of an indictment found, or of an information supported by affidavit, in the demanding state, or by a copy of an affidavit made before a magistrate of such state, and by a copy of the warrant which was issued thereon, or by a copy of a judgment of conviction or of a sentence imposed in execution, thereof in the demanding state. The indictment or information, or the affidavit made before the magistrate who issued the warrant, shall substantially charge the person demanded with having committed a crime under the law of the demanding state, and the copy of the indictment, information, affidavit, judgment of conviction or sentence shall be authenticated by the executive authority of such state.

Section 15. When a demand shall be made upon the governor by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any other prosecuting officer to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

Section 16. If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, sealed with the state seal and directed to an officer authorized to serve warrants in criminal cases or other person whom the governor may think fit to entrust with the execution thereof. Such warrant shall substantially recite the facts necessary to the validity of its issue.

Section 17. Such warrant shall authorize the person to whom it is directed to arrest the accused at any time and any place where he may be found within this commonwealth and to command the aid of all officers authorized to serve warrants in criminal cases or other persons in the execution thereof, and to deliver the accused, subject to the provisions of said sections eleven to twenty R, inclusive, to the duly authorized agent of the demanding state.

Section 18. Every such person empowered to make an arrest shall have the same authority, in arresting the accused, to command assistance therein, as officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

Section 19. No person arrested upon such a warrant shall be delivered over to the agent whom the executive authority of the demanding state shall have appointed to receive him unless such person shall first be taken forthwith before a justice or special justice of a court of record of this commonwealth, who shall inform such person of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and, if the prisoner or his counsel shall state that he desires to test the legality of his arrest, such justice or special justice shall fix a reasonable time to be allowed the prisoner within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon shall be given to the attorney general and to the district attorney for the district in which the arrest is made and for the district in which the accused is in custody, and to said agent of the demanding state.

Any officer who shall deliver to said agent of the demanding state a person in his custody under the warrant of the governor, in wilful disobedience of the provisions of this section, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or both.

Section 20. The officer or other person executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner shall have been delivered, may when necessary confine the prisoner in a jail or other place of detention in any county, city or town through which he may pass; and the keeper of such jail or place of detention shall receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his journey, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner shall have been delivered following interstate rendition proceedings in another state, or to whom a prisoner shall have been delivered after waiving interstate rendition in another state, and who is passing through this commonwealth with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in a jail or other place of detention in any county, city or town through which he may pass; and the keeper of such jail or other place of detention shall receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his journey, such officer or agent being chargeable with the expense of keeping; provided, that such officer or agent shall produce and show to such keeper satisfactory written evidence that he is actually transporting such prisoner to the demanding state pursuant to a requisition by the executive authority thereof, or that such prisoner has waived interstate rendition. No prisoner being transported pursuant to such a requisition or waiver shall be entitled to demand a new requisition while in this commonwealth.

Section 20A. Whenever any person within this commonwealth shall be charged, on the oath of any credible person before any court or justice in this commonwealth authorized to issue warrants in criminal cases, with the commission of any crime in any other state, including cases arising under section thirteen, or with having been convicted in such other state and having escaped from confinement or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any such court or justice in this commonwealth setting forth, on the affidavit of any credible person in another state, that a crime has been committed in such other state and that a person has been charged in such state with the commission of a crime, including cases arising under section thirteen, or with having been convicted of a crime in that state and having escaped from confinement or having broken the terms of his bail, probation or parole, and is believed to be in this commonwealth, such court or justice may issue a warrant directed to any officer authorized to serve warrants in criminal cases, commanding him to apprehend the person named therein, wherever he may be found in this commonwealth, and bring him before the same or any other such court or justic convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit; and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Section 20B. The arrest of a person may be lawfully made also by any officer authorized to serve warrants in criminal cases, without a warrant, upon reasonable information that the accused stands charged in another state with a crime punishable by death or by imprisonment for a term exceeding one year, but when so arrested the accused shall be taken with all practicable speed before a court or justice authorized to issue warrants in criminal cases and complaint shall be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

Section 20C. If from the examination before such court or justice it appears that the person held is the person charged with having committed the crime alleged, including cases arising under section thirteen, or is the person charged with having been convicted of a crime and having escaped from confinement or having broken the terms of his bail, probation or parole, such court or justice shall, by a warrant reciting the accusation, commit him to a jail or house of correction for such time, not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor, on a requisition of the executive authority of the state having jurisdiction of the crime, unless the accused gives bail as provided in the following section, or until he shall be legally discharged.

Section 20D. Unless the offence with which the person arrested is charged is shown to be an offence punishable by death or life imprisonment under the laws of the state in which it was committed, such court or justice may admit such person to bail by bond or undertaking, with sufficient sureties and in such sum as such court or justice deems proper, conditioned for his appearance before such court or justice, at a time specified in such bond or undertaking, and for his surrender to be arrested upon the warrant of the governor.

Section 20E. If the accused has not been arrested under warrant of the governor at the expiration of the time specified in such warrant, bond or undertaking, such court or justice may discharge him or may recommit him for a further period of sixty days, or may again take bail for pearance and surrender, as provided in the preceding section, but within a period not to exceed sixty days following the date of such new bond or undertaking.

Section 20F. If the accused is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond or undertaking, such court or justice, by proper order, shall declare the bond or undertaking forfeited and order his immediate arrest without warrant if he be within this commonwealth. Recovery may be had on such bonds or undertakings in the name of the commonwealth as in the case of other bonds or undertakings given by persons accused in criminal proceedings within this commonwealth.

Section 20G. If a criminal prosecution has been instituted against such person under the laws of this commonwealth and is still pending, the governor, in his discretion, may either surrender him on the demand of the executive authority of another state, or hold him until the final disposition of such prosecution or, if convicted and sentenced, until his discharge from imprisonment.

Section 20H. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor, or in any proceeding after the demand for interstate rendition accompanied by a charge of crime in legal form as provided in section fourteen shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

Section 20I. The governor, whenever he deems proper, may recall his warrant of arrest or may issue another warrant.

Section 20J. Any person arrested in this commonwealth charged with having committed any crime in another state or with having been convicted in another state and having escaped from confinement or having broken the terms of his bail, probation or parole, may waive the issuance and service of the warrant provided for in sections sixteen and seventeen and all other procedure incidental to interstate rendition proceedings by executing or subscribing in the presence of any court or justice of this commonwealth authorized to issue warrants in criminal cases a writing which states that he consents to return to the demanding state; provided, that if such waiver shall be executed or subscribed by such person it shall be the duty of such court or justice to inform such person of his rights to the issuance and service of a warrant in interstate rendition and to obtain a writ of habeas corpus as provided in section nineteen. If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor and filed therein. Such court or justice shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent of the demanding state, and shall deliver or cause to be delivered to such agent a copy of such consent; provided, that nothing in this section shall be deemed to limit the right of the accused person to return voluntarily and without formality to the demanding state, nor shall the foregoing waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this commonwealth.

Section 20K. Whenever the governor shall demand a person charged with crime in this commonwealth, or one charged with having been convicted in this commonwealth and having escaped from confinement or having broken the terms of his bail, probation or parole, from the chief executive of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he may issue a warrant, under the seal of this commonwealth, to some agent, commanding him to receive the person so charged if delivered to him, and convey him to the proper officer of the county in which the crime was committed.

Whenever it is desired to have returned to this commonwealth a person charged herein with a crime, or with having been convicted in this commonwealth and having escaped from confinement or having broken the terms of his bail, probation or parole, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor may agree with the executive authority of such other state for the interstate rendition of such person before the conclusion of such proceedings or of his term of sentence in such other state, upon such conditions relative to the return of such person to such other state at the expense of this commonwealth as may be agreed upon between the governor and the executive authority of such other state.

Section 20L. (a) Whenever the return to this commonwealth of a person charged with crime herein is required, the attorney general, or the district attorney for the district in which the crime is alleged to have occurred, shall present to the governor his written application for a requisition for the return of the person charged, in which application there shall be included a statement of the name of the person so charged and the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein, at the time the application is made, and a certificate that, in the opinion of the said attorney general or district attorney, the ends of justice require the arrest and return of the accused to this commonwealth for trial, and that the proceeding is not instituted to enforce a private claim.

(b) Whenever the return to this commonwealth is required of a person who has been convicted of a crime herein and has escaped from confinement or has broken the terms of his bail, probation or parole, the district attorney for the district in which the crime is alleged to have occurred, the parole board or the warden or superintendent of the institution from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, and the state in which he is believed to be, including the location of the person therein, at the time the application is made.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or of the complaint made to a court or justice, stating the offence with which the accused is charged, or of the judgment of conviction or of the sentence. The attorney general, district attorney, parole board, warden or superintendent may also attach such further affidavits or other documents in duplicate as he or it may deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment or complaint, or of the judgment of conviction or of the sentence shall be filed in the office of the state secretary to remain of record in that office. The other copies of all such papers shall be forwarded with the requisition of the governor.

Section 20M. If the application for a requisition for the return to this commonwealth of a person charged with crime herein, or for the return of a person who has been convicted of a crime herein and has escaped from confinement or has broken the terms of his bail, probation or parole, is complied with and an agent appointed, the account of such agent shall be paid like other expenses in criminal cases by the county where the proceedings are pending or, in the case of the escape from confinement of a prisoner under sentence, by the commonwealth; but the governor may direct the whole or any part thereof to be paid by the commonwealth.

Section 20N. A person brought into this commonwealth on, or after waiver of, interstate rendition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted or acquitted in the criminal proceeding, and, if acquitted, until he has had reasonable opportunity to return to the state from which he was brought by interstate rendition proceedings or upon waiver thereof.

Section 20-O. After a person has been brought into this commonwealth by interstate rendition proceedings or upon waiver thereof he may be tried herein for other crimes which he may be charged with having committed herein, as well as that specified in the requisition for his interstate rendition, or in the waiver thereof.

Section 20P. Nothing in sections eleven to twenty O, inclusive, shall be deemed to constitute a waiver by this commonwealth of its right, power or privilege to try any person demanded of it for a crime committed herein, or of its right, power or privilege to regain custody of such a person by interstate rendition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed herein, nor shall any proceeding under said sections which result in, or fail to result in, interstate rendition be deemed a waiver by this commonwealth of any of its rights, privileges or jurisdiction in any way whatsoever.

Section 20Q. If any part of sections eleven to twenty P, inclusive, is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of said sections.

Section 20R. Sections eleven to twenty R, inclusive, may be cited as the uniform criminal interstate rendition law, and shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states enacting similar laws.

SECTION 2. As soon as practicable after this act has the force of law, the state secretary shall certify a copy thereof to the executive department of each of the states of the United States.

SECTION 3. This act shall take effect on October first in the current year.

Chapter Thirty-Six

CRIMINAL IDENTIFICATION - DESCRIPTIONS, ETC.

Criminal identification is a recognized science today among all up-to-date police departments and what we know on this subject has been largely taken from European countries.

In the old days police officials, realizing the need of some system of identifying criminals, used some method of describing their features and clothing and later on, photographs. But all these systems were inaccurate and unsatisfactory until a Frenchman by the name of Alphonse Bertillon invented anthropometry, the science of bodily measurements - known as the Bertillon System in 1882.

This system is based on the fact that certain dimensions of certain bony portions of the body do not vary between adolescence and old age. Specific measurements such as head length, middle finger length, foot length, and cubit (forearm) are selected. Each primary heading was subdivided according to height, span, length, and breadth of the ear, height of bust, and eye color. Later, he added his Portrait Parle System of photographic description and method of grouping colors and peculiar characteristic marks. Some time later he added fingerprints with his own classification system.

The Bertillon System, while it is an accurate method of measuring is being gradually done away with, and the Finger Print System of identification is taking its place. The reason for this is as follows: Bertillon measurements are not reliable unless the person whose measurements have been taken is fully matured; no two officials measuring or looking for deformities will record them exactly alike, or there will be errors by the clerk in transcribing, and allowances have to be made for variations in measurements. So experts believe that this system is not infallible. Anyway practically all police departments have discarded their use and never resort to them except to check up on some old time criminals, or to verify the measurements given by some department that still uses them.

The Finger Print System is the most positive means of identification now in use. It is based on what is known as the papillary ridges of the fingers. These papillary ridges, commonly called finger prints, which are used for the purpose of identification, are the lines on the surface of the finger tips, from which certain typical patterns can be accurately classified. Such patterns appear three months prior to birth and disappear with the dissolution of the body after death. No two impressions have ever been discovered exactly the same.

Finger prints were known among the Chinese 1000 years ago, where the thumb prints were used as a sign manual, they realizing that no two thumb prints were exactly alike.

But it remained for Sir William Herschel of the Indian Civil Service, who was the executive in the Hoogly district of Bengal, India, to develop an extensive system of his own, devised for identification purposes, which system he put into effect in his district. This was in 1858. He used the thumb print in all his identifications.

In 1894, it was decided by the British government to look into fingerprint possibilities more thoroughly, and Sir Francis Galton was appointed, and it was largely through his efforts and the work of Herschel that finger prints were brought into general use.

However, the first system to make the classification of finger prints workable was the invention of Sir Edward Henry, formerly Commissioner of the Metropolitan Police of London. They were officially adopted by the Scotland Yard, London, in 1901, for the identification of criminals and adopted by our own police force in 1906.

Since that time, it has been adopted by practically all the up-to-date police forces of the world. The United States Government has adopted it for ready identification of deserters in the Army and Navy, and for the identification of unknown dead in battle. It is fast becoming adopted by banks, insurance companies, and other corporations, especially where persons cannot read or write, and in time, it will probably be adopted by the Civil Service Department of every state, to prevent fraud in their examinations.

Their principal use is by police departments, for the identification of criminals who may have a previous criminal record; and for the apprehension of persons who have committed a crime and escaped detection, but who unconsciously left telltale impressions by having touched some article with a smooth surface, such as silverware, glassware, chinaware, bottles, glasses, highly polished surfaces, etc., on the premises where their crime was committed.

Finger impressions are really pictures of the ends of the fingers and as these ridges are a part of the body, they cannot be disguised, forged, or altered in any manner. Finger print experts can make an identification which is positive almost immediately, where they have perfect prints.

There are numerous methods of classifying finger prints, but all of them are based on the peculiarities of the ridges appearing on the outer joint of the fingers. These ridges are classified according to their types into loops, arches, whorls, or composites. These patterns or ridges remain permanent during life, and evidence of an identification through finger prints, when given by a competent witness, is admissible and will be accepted by any court in the country.

Impressions of finger prints for police purposes are taken in two ways, rolled, and plain. To take a rolled impression, the bulb of the finger is placed on the inked slab and the finger is turned over until the bulb, which originally faced the left is facing the right. It is then pressed lightly and in the same manner on the paper made for this purpose. The rolled impression is made to get the full pattern of the ridges.

A plain impression is secured by placing the bulb of the finger on the inked slab, and then pressing the finger on the paper without any turning movement. The plain impression is used as a check on the rolled impression.

It is very important in the investigation of cases of breaking and entering, blowing safes, tampering with cash drawer, or registers, that the officer, if he is satisfied that the criminal has escaped, - erect suitable guards around the safe or other place where there may be finger impressions, until the arrival of an expert from headquarters, who will search for such impressions. Remember that finger impressions may be found on the following objects that the criminal may have touched: the safe, pianos, window sills, panes of glass, glassware, or any other smooth surface, and great care should be exercised that no one else touches these objects as these latent prints can be developed and photographed, which in many cases are the only means of identifying the criminal.

The finger print expert in developing such finger prints found on any of the above mentioned surfaces on any dark or black surface, will use a white powder (mercury and chalk); while on a white or light colored surface, a black powder (graphite or lamp black) is used.

Sometimes a criminal is barefooted and his footprints can be readily identified just as easily as his fingerprints. Shoe and heel marks in dust or dirt are often valuable in determining the identity of the person who committed the crime.

LATENT FINGERPRINTS:

These are fingerprints found at the scene of a crime on smooth objects such as pianos, safes, autos, window glass, glass bottles, smooth paper, firearms, and other instruments, etc., that can be developed by the application of certain powders to bring out their characteristics. Often no other clue to the culprit is found, and through a system of single fingerprint files, where individual fingerprints are classified by special formulas, the identity of the criminal can be proven by these latent prints.

Modus Operandi System, known as the M.O., is a method of tabulating criminals by their method of operation, that is, the manner in which they commit their crimes. It is usually used in crimes against the property, and comes under ten headings; as follows, the building, place of entrance, means used, object (property stolen), time, associates, vehicles used, represented himself as, tale, and other peculiarities. In the commission of crime, criminals all have their peculiarities. They all act differently, talk differently, think differently, so in the commission of crime, they do things, have little habits, that set them definitely apart from the other fellow; and these peculiarities are listed under the Modus Operandi System, which has proven itself of immense value in the detection of known offenders in certain types of crime.

While the Bertillon and Finger Print Systems are of great value in identifying those who have a criminal record, or who may be wanted in some other city, or in identifying those who may leave their fingerprints behind them at the scene of a crime, the old method of getting a good description of the person wanted is the most efficacious means for the ordinary police officer. Fingerprints or Bertillon measurements mean but little to the police officer patrolling his route, but give him a good description of the person wanted, and if he is alive or interested in his work, you may be sure he will capture that person if he passes over his route and he comes in contact with him.

The component parts of a good description should be thoroughly understood by every policeman. In most criminal cases, the perpetrator has escaped or left the crime scene before the arrival of the officer. If he is not known to the officer, he must obtain his description from eye witnesses of the crime. To get a good description under these circumstances is largely upon the intelligence of the officer and his manner of questioning the witnesses. He must thoroughly understand what is wanted before he can successfully question the witnesses, and bring out the necessary points of a good description.

Almost every day in the week you receive at roll call or over the telephone, a description similar to this: "Wanted on Division 1 for robbery, a man. about 25 years, 5-8, 160 lbs., dark complexion, dark hair, dressed in a blue serge suit, straw hat, tan shoes." Now if you stood on any busy corner on your route probably a dozen or fifteen persons answering this description would pass you inside of a half an hour, and yet each and everyone of them would not be the man wanted.

Now if the officer who originally made the report had turned in a description something like this in the above case, just notice how easy it would be to identify the person wanted. Wanted on Division 1 for robbery, a man, about 25 years, an Italian, 5-8, 160 lbs., dark complexion, prominent nose, scar on left cheek, black curly hair, gold front tooth, brown eyes, dressed in a blue serge suit, belted back, straw sailor hat, and low tan shoes. He is a neat dresser and walks with a swagger and very erect. Could you make a mistake in arresting a person where a description was given like this?

Remember the important things in a good description are those that will narrow the search. A good description should always contain the following items: Age, height, weight, nationality, sex, color, complexion, color of eyes, color of the hair or moustache, physical appearance, occupation.

In addition always add his physical deformities, such as, scars, moles, fingers, limbs, or teeth missing, baldness, tatoo marks, gold or false teeth, nervousness, or unusual habits, manner or dress, and any other personal characteristics that will mark him from any other person.

Get into the habit of forming a mental picture of the person wanted, from the description given, and if possible, check up on yourself to see how near your picture compared with the original. This will help you in your work.

The following is taken from a superintendent's order issued November 3, 1921.

It is very important in the investigation of all cases of breaking and entering stores and other buildings, especially where safes have been blown or tampered with, that the officer discovering the same, shall, upon entering the building, when satisfied that the thieves have escaped, temporarily erect suitable guards around the safe, and if possible, place an officer whose duty it will be NOT TO ALLOW ANY PERSON TO TOUCH THE SAFE, contents, or any other article nearby that may have been handled by the thieves, UNTIL THE ARRIVAL OF SOME MEMBER OR MEMBERS OF THE BUREAU OF RECORDS.

The officer discovering the break, after erecting such guards, as mentioned above shall, as soon as possible, notify the officer in charge of his station.

The officer in charge of the station, in addition to the requirements of Rule 27, section 27 P.M., shall notify the officer in charge at the Bureau of Criminal Investigation, giving all the facts possible, with the street and number of the place where the break occurred, who will notify the Bureau of Records.

The officer in charge of the Bureau of Records shall as soon as possible, send an officer familiar with any marks or fingerprints that may be apparent at the place where the break occurred for the purpose of examining such marks or fingerprints. The officer so detailed, if in his opinion, such marks, etc., can be used as evidence or as a means of tracing or apprehending the thieves, shall cause the said mark or fingerprints to be photographed.

This will also apply in all cases of crime, as well as breaks and especially murder cases, and commanding officers will call to the attention of all officers the value and importance of preserving fingerprints until the arrival of an expert from headquarters.

Chapter Thirty-Seven

CRIME, ITS CAUSES AND PREVENTION

The causes of crime and its prevention have been receiving increasing attention and study by various criminologists, educators, crime commissions, newspaper writers, and many others too numerous to mention. However, the public is gradually being aroused to the serious problem that confronts it in the menace of organized crime, but with all the discussion and study of this problem, no satisfactory conclusion has ever been arrived at for its prevention or cure.

No matter whether it was a "crime wave" passing over our country, soon to expend itself, or the natural result of our methods of dealing with evil doers through our courts, or the inevitable outcome of a population into whose blood has been injected for generations, the poison current of evil, foreign born nationalities, or the usual lawlessness, or wickedness that succeeds the supreme crime "War", this country of ours never has been so overrun with reckless, heartless, and murderous criminals as in the past generation.

The main causes of crime are the same today as in the past: namely, poverty, ignorance, environment, and moral weakness. To these might be added the following modern causes:

(1) AN UNPRECEDENTED CHALLENGE TO LAWFUL AUTHORITY BY ALL CLASSES. This was especially noticeable during "prohibition", when most everyone violated the Volstead Act. Then we have had the scandalous conduct of certain high government officials. The breaking down of our marriage and divorce laws. The jealousy, avarice, and distrust that exists between business men in their dealings with each other. The continual fight (often by criminal or unlawful means) between capital and labor. Finally, the indifference or hatred of law and order of the average citizen which all together are gradually bringing about a total disregard for all law by what was considered a thoroughly law abiding people.

(2) A HATRED FOR LAWFUL EMPLOYMENT: This applies more to our young people than anyone else. We all know there has been a depression on, and it is almost impossible to get any kind of a job. Yet these young persons seem incapable of taking any kind of work unless it is the so called "white

collar" kind. More so, when they have fond parents who are willing to supply them with money to live a life of ease. Unfortunately, they seldom have enough, or believe they should have more to supply their growing desires for pleasure; so they are soon stealing either from the parents themselves or, as is more often the case, from persons not known to either. All this could have been prevented by their being lawfully employed in some decent occupation or in attending a school for higher education.

(3) AN UNREASONABLE DESIRE FOR PLEASURE: There seems to be an unreasonable desire for those pleasures that were a rarity not many years ago. Most everyone owns an automobile, we want to go places, see things, stay at expensive hotels, eat at flashy restaurants, and visit gay cabarets, dances, etc. All this seems innocent enough, but when our young are concerned in it, they do not care whether or not these places are respectable, whom they meet there, or if the cost is beyond their means, which often results in disaster.

(4) FINALLY, and probably the most common cause for this growing disregard for law and order amongst our boys and girls lies in the parents themselves. There seems to be a lack of education or disinterest on the part of parents as to the proper guidance and welfare of their children. Parents are more interested in their own personal pleasures than in seeing that their children, that is children between the ages of 15 and 21 years, are keeping proper hours, associating with proper companions, or are spending their time in decent places when not under parental control.

In the old days, when a boy did something wrong, the father used a strap or a stick to make it plain that he could not do certain things. If the boy made any talk about getting a "licking" he was told "I am your father and you are going to do what I say until you are twenty-one." The modern father remonstrates mildly with his son, and the son, soon realizing that no harm is coming to him, pays no attention to him whatever, because he thinks he knows more than his father anyway. This gospel is taught all around him and he must believe it. It is out of date for any child to obey his parents. So when the modern parent starts to teach or admonish his children, the good advice rolls off them like water from a duck's back.

Children of today have little faith in religion, morals, ethics, or obedience. They fear neither God, man, nor the devil, and their parents seem resigned to it as this is a different world from that they have known.

Criminals of today are youngsters. It is a surprising thing, but most of the serious crimes committed today are the work of boys and girls of high school age who should be attending school or learning some useful trade. Most always they are under twenty-one and not working or attending school. They compose the most vicious class of criminals ever known in the annals of American crime or police records.

Crime of today does not seem to require any ready wit. It calls for something the old-timer rarely ever did; a killing - and this with little compunction and in a coldblooded and heartless manner.

Years ago criminals had a reputation or specialty in crime. Often the manner in which a crime was committed readily identified the culprit. All the live officer had to do was to consult his Bertillon files, the Finger Print records, or the Modus Operandi files and his man was quickly identified and apprehended.

The criminal of today is a different fellow from his brother of ten to twenty years ago. We arrest some young "thug" who has shot someone in a holdup, held off four or five police officers with a revolver, or has stolen enough loot to start a fair sized store, and we never heard of him before. He is something new, the product of the times. He usually is a user or nibbler of narcotic drugs and he has all the viciousness of the old-timer multiplied. His crime rarely requires a cool head or hand and he has neither; more often his actions are like a crazy person.

It is a serious crime to be caught with a gun on your person in the commission of crime and the old-timer rarely had or used one. However, the criminal of today most always uses one and a killing seems part of his stock in trade. No matter how vicious or murderous his acts may be, to him they are all part of a vague dope or pipe dream.

That crime has increased and that criminals have become more vicious is beyond question. So much so, that it has become a challenge to our methods of administering criminal justice. This challenge must be met, as the paramount duty of every civilized state is the protection of life and property. If this fails, all fails. It should be realized however, that the commission of crime cannot be completely suppressed, even in the most perfect society and under the most improved laws and administration. But crime can be greatly reduced and the efforts of all law enforcing bodies should be towards reducing it to the lowest degree.

If persons who commit crime are quickly apprehended on the heels of its commission, criminal justice will never fail. Quick and certain arrest are the greatest deterrents in preventing crime. Where criminals commit crime and are not apprehended or get away with it, crime always flourishes. The police are the first line of defense against the criminal, and to meet conditions as they are today, they must be of unquestioned honesty, thoroughly trained to cope with modern criminals, free and untrammelled by politics and backed to the limit by public opinion.

The public must be convinced that crime is a problem and that all law abiding citizens have a duty to perform if a community is to exist as a civilized unit. Citizens should be made to understand that they make the laws through their representatives, and that the police simply represent them in their enforcement, and to give the police the same cooperation that they are always willing to give the fire department at the scene of a large fire where most every one is willing to lend a hand, then we will get somewhere.

No one commits a crime with the police looking on, still fewer crimes are committed without some disinterested person seeing it or knowing something about its commission, yet how infrequent it is that this information is given to the police.

Every citizen must back up the police and all other law enforcing agencies. There must be no dilly-dallying with criminals. No law abiding citizen should refuse jury duty, or be afraid to give evidence or tell what he knows against criminals. There is much at stake, the safety of our lives, homes, and property, certainly every citizen must do his part if the police are to be successful in their fight against crime.

Another step in the elimination of the criminal is to get rid of the so called "shyster" lawyer! By this term I mean lawyers often very shrewd and competent, whose sole object in life is to get the money. Their business is to defend crooks who have stolen large amounts of loot and to get as much of that loot as possible for themselves. Crooks are well acquainted with these persons, and place great confidence in them. Usually this trust is amply repaid, as through their sharp and devious practices they have plenty of success with our tired-out court judges.

A big help also would be for politicians, judges, district attorneys, lawyers, social service workers, and societies for the rehabilitation of criminals to have the same interest and feeling for the citizen whose life, liberty and pursuit of happiness has been interfered with, and guarantee them their constitutional rights, which they are so careful to guard for the criminal who has broken every law of the land. We cannot pet or coddle criminals. They should not be treated as special favored guests, yet we must not go back to the barbaric age, nor should the pendulum of justice swing to either extreme, having in mind the protection of life and property as the desired end.

Perhaps a few statistics may not be amiss in bringing home to you the gravity of the situation.

An average of six policemen are killed by gunmen to every one of them that goes to the electric chair or gallows.

In this country, we have about 1,000,000 homicides yearly. Of this number only 34% of the murderers ever get a trial, and 1% of these receive the extreme penalty. One hundred thousand persons are assaulted, fifty thousand are robbed, and the houses of forty thousand are burglarized.

Crimes of violence in this country in proportion to population are double those of Italy, commonly regarded as the scene of much criminality.

In the United States over 1,000,000 persons make crime their profession and get a living out of it. Of this number, at least one-half are armed. If an armed enemy of this size had landed on our shores with evil intent, the whole country would be quickly aroused to the seriousness of the situation. Yet this vast criminal army, even though widely scattered, is a trifle less serious in importance, but no one seems to worry about it.

Statistics show that one person in every twenty-five has a court record. This means that one out of twenty-five has been arrested by the police for some law violation. This fact is made more serious by the knowledge that the youth of the country are more addicted to crime - the nineteen year old group being larger than any other class. So if the youth of nineteen is the leader in criminality it stands to reason that something just short of a miracle must happen to prevent him from becoming a crime menace that will tax the nation to overcome.

It has been estimated that the annual crime cost in this country amounts to fifteen billions of dollars, about $120 a year for every man, woman, or child in the United States. A nice sum of money all coming out of the pockets of the common people, yet we do nothing about it.

Every criminologist, educator, or clergyman preaches that "crime does not pay". The fact of the matter is in this country "crime pays too well". In England, Canada, and other foreign countries, it does not pay; so their prisons and courts are not overcrowded, and there is no joking about justice, as is too often the case here. When we see the general appearance of prosperity and the immunity of certain "Big Shot" criminals, all in all, it looks as though crime is really good business. The trouble is that there are too many loopholes in favor of crooks defeating justice. There are too many delays before he comes to trial and if convicted and sentenced, it is a hard job to keep him in prison on account of our too easy paroles and pardons. By the time a criminal is tried and convicted, public interest in the case has died down so that the deterrent effect in arresting or sentencing criminals is often defeated.

The big question now is: "What can be done to remedy this crime situation?" The social service worker might say, "Do away with poverty." The educator: "Have a better system of education." The criminologist or psychiatrist: "Treat all criminals as mental cases." The clergyman: "The cure for crime lies in a better religious training and a firmer belief in all that Christianity stands for."

All these might help in solving this problem, but in my opinion, the real cure lies in the citizens themselves. When they will get interested enough to start inquiring why these conditions exist; when they take more interest in public affairs, and who they elect to public office, many of these conditions will quickly change. We all know that the politicians, the courts, the police, and all other public office holders always have their ears to the ground to find out what the public wants and how badly they want it. When the rank and file of our citizenry become aroused and demand that certain conditions be remedied, never fear, they will be straightened out in a very short time.

All officers, in addition to apprehending criminals who have committed a crime, should remember they have an additional duty in the prevention of crime. Crime prevention is as much his duty as arresting criminals after the commission of a crime, in fact, it is one of the most important functions of any police department. Where crime is prevented, it saves the time of the police in making arrests and appearing in court. It saves the costs of courts, judges, jurors, and prisons; and in addition the stigma of the offender as a criminal which may cause him to become an enemy to society and openly live a life of crime.

Then again the crime prevention will save the state the necessity of supporting the criminal's family, if he is incarcerated and also the loss of property, and in entailing inconveniences where it could have been stolen or destroyed through the acts of the criminal.

All superior officers who are interested in the prevention of crime should make a careful survey of their division or district, noting buildings, dwellings, stores, and other places that might be the subject of crime. They should know all places in their sections of the city where persons with criminal records or criminally inclined, live or congregate; also all other suspicious places, with the idea of better police supervision of such places or persons.

The captain should make a careful study of the men under his command, with a view of determining their special qualifications, such as speaking foreign languages, etc., and are best fitted for assignments requiring special ability.

All members of their commands should be thoroughly instructed in the laws and ordinances relating to police work and the necessity of strict law enforcement. They should be made to familiarize themselves with the characteristics of the criminals they are likely to come in contact with and keep them abreast of the times.

Police officers should be assigned to routes or duties after a careful investigation into their activity, alertness, ability to speak foreign languages, etc., with the idea of using their qualifications to the best advantage.

Special attention must be given to pool rooms, billiard halls, dance halls, cabarets, all night restaurants, shady club rooms, pawnbrokers, second hand dealers, junk shops, and other licensed places that may be the breeding places of crime or a place to dispose of loot.

No live superior officer will rely on the reports of his patrolmen alone, but should visit these places himself, any by constant supervision, observation, and visitation at irregular periods, should know what is going on and keep his men always on the alert. By this, much crime will be prevented and will also show a high state of efficiency in the affairs of that division.

Regardless of the causes that actuate persons to commit crime, society must be protected against them. The police must be vigorous in detecting and arresting criminals. The courts must determine their responsibility in criminal acts, and the state must provide the means for their proper examination, detention, or imprisonment.

At present, our laws do not and never did prevent all crime, and until we find some means of education or prevention hitherto unknown, the criminal of today is, and will continue to be one of the most serious problems for our nation to solve. It certainly merits deep thought and determination to overcome it by every citizen, public official, and certainly every police officer.

Chapter Thirty-Eight

BOSTON POLICE ORGANIZATION AND METHODS

A well regulated police is the strong right arm of all local governments; its presence is ever a guarantee of peace and the supremacy of the law and a safeguard to life and property.

The earliest settlers in this country brought with them the police system in vogue in their particular nation, and as the majority of them came from England, we find that our police departments are patterned largely after those of English cities.

The office of constable and the "watch and ward" came to us with the common law. Up until the time of the enactment of the City Charter in 1822, peace officers consisted of constables supplemented by watchmen who had the powers of constables. When Boston became a city in 1822, the administration of the police was transferred from the selectmen to the mayor and aldermen. The designation "Police" was used for the first time in this charter, and means or includes constables, watchmen, and other officers who performed the duties of peace officers.

However, it was not until 1853 that the creation of the present type of police department was authorized. At this time, the City Council united the watch and police department and appointed a chief of police, a deputy chief, captains, and lieutenants who were given all the powers of Head Constable and constables of the watch.

The appointment and control of the police department remained vested in the mayor and aldermen until 1878, when a board, three in number, was appointed by the mayor and put in force. In 1885 the administration of the police was transferred to a board of three, appointed by the governor; and in 1906 a single commissioner was authorized, appointed by the governor and so it is at the present time.

We hear a lot of discussion and criticism in the newspapers or by political publicity seekers, on the efficiency or inefficiency of our police departments of today, so I am giving the following as a brief resume on how the Boston Police Department is organized to handle crime, and let you judge for yourself whether or not we are as ineffecient as many of our critics claim us to be.

Of all the law enforcing agencies, whether they be Federal, State, county, or local, the city police always has been and still is, the most important, the most dreaded, and the best known to the criminal, no matter what his particular form of criminality may be.

The police department of the City of Boston consists of a Police Commissioner appointed by the Governor, a Superintendent, Deputy Superintendents, Captains, Lieutenants, Lieutenant Inspectors, Sergeants, Detective Sergeants, Patrolmen, Policewomen, and various other employees to the number of about 2300 persons, all appointed by the Police Commissioner under the Civil Service Rules of this Commonwealth.

PLACE OF THE POLICE OFFICER IN GOVERNMENT

(1) The police force is a branch of the executive and derives its authority from state and municipal subdivisions thereof.

(2) By virtue of law and appointment by the Governor, the commissioner and each of his subordinates is an arm of the executive.

(3) The special province of the policeman is law and order, the preservation thereof, the apprehension of criminals and the prevention of crime, and the preservation of life and property.

(4) Since no separate function of government can exist without cooperation with others, the police department works in conjunction with the other city departments and courts of criminal jurisdiction.

(5) The position of police officer is therefore, one of importance and dignity in government. It calls for discipline, respect for authority, and profound responsibility for the maintenance of law and order.

In the service of the department there are two distinct classes as follows:

(a) The Police Force, or as commonly known "The Force" consisting of those clothed with police powers.

(b) All other employees such as clerks, matrons, mechanics and the like.

The "Force" so called, to combat crime, is divided up into Police Divisions, which take in some particular part of the city, and are under the command of a captain. In addition to this, there is the central station, or as is called in Boston, "Police Headquarters" under the direct command of the superintendent, with its various administrative units.

At "Headquarters" is the office of the commissioner with the following members of his official family and other units which are under his direct order and control: the Secretary, Assistant Secretary, Legal Advisor, Aide to the Commissioner, Chief Clerk, Supervisor of Cases, Signal Service, Superintendent of Buildings, Property Clerk, and (when ordered convened) Trial Boards, Boards of Merit, and Boards of Survey.

The superintendent is the chief executive officer of the department, and he has authority over all divisions, bureaus, or other units of organization except those assigned directly to the Commissioner. He is responsible for the proper enforcement of all laws, ordinances, and regulations that the police are empowered to enforce, and is himself subject to no one but the Police Commissioner.

At headquarters is the Bureau of Criminal Investigation or, as it is commonly known, the B.C.I., under the command of a Deputy Superintendent with the title of Chief Inspector. The B.C.I. is in turn divided up into various specialistic groups or squads, namely:

(1) The Homicide Squad, who investigate and cooperate with the Medical Examiner and other investigating officers, all violent, sudden, suspicious, or mysterious deaths which occur in our city.

(2) The Bank Squad, composed of officers who are experts on forgers, bad check passers, and confidence men of all descriptions who patrol the financial district on the lookout for such law violators.

(3) The Pickpocket Squad, who cover our railroad depots, subways, street car stations, parades, and all conventions or other large gatherings for pickpockets and small time swindlers.

(4) The Pawnshop Detail, who check up on all stolen goods reported, comparing the pawnbrokers report of articles received with such lost or stolen property. They also supervise such licensed places and report on their fitness to obtain a license or engage in such business.

(5) The Automobile Squad, who are constantly employed in checking up and locating stolen automobiles in addition to supervising licensed second hand automobile dealers, junk shops so concerned.

In addition to these, there is the narcotic squad, working on drug addicts and pedlars, and various other specialistic groups that are assigned to special work from time to time.

The Special Service Squad is a separate and distinct unit from the B.C.I., and is under the command of a Deputy Superintendent. This squad is on duty day and night and rush to the scene of a murder, burglary, shooting affray, riot, or other emergency of such nature. The gambling and vice squad, under the command of a captain, is also attached to this unit.

In headquarters is also the Bureau of Records, under command of a Deputy, the information center of the department. Here is recorded all information concerning criminals, stolen property, offences known to the police from all sources, and missing persons. It has charge of all fingerprints and fingerprinting, photography of individuals, and their classification by their criminal records, histories of criminals, showing former convictions in a summarized form and careful property identification.

The Ballistic Unit, under the command of a Sergeant, is the modern scientific addition to the department. It has charge of all investigation concerning "forensic ballistics" or the science of bullet expulsion from guns, pistols, revolvers, and similar weapons, as is necessary for evidence in court. Here we find the Handwriting Expert, the Microscopic Expert, who can determine the component parts of certain articles that may be of value in settling or determining a point of evidence in question, and experts on the handling of moulage for reconstruction of human bodies or other objects as may be needed to clear up or show what these persons or things look like. This office, with its modern scientific apparatus and its galleries of different kinds of guns, firearms of all description, photographs, crime scenes, is one of the show places of the department.

The Bureau of Operations, under the command of a Lieutenant, is the broadcasting unit of the department and though it has been in operation for a few years, it has already proven itself of indispensable value in sending out alarms, messages, or requests over the radio, teletype or telephone, concerning holdups, criminal matters of all kinds and accidents or emergencies that require the immediate attention of the police. It is in direct contact with numerous cities and towns, either by radio or teletype in Massachusetts and, if necessary, could get in touch with practically all large cities or other large police units by an organized system of relaying in a very short time. We have adopted the two-way radio system in all our radio cars which greatly facilitates communication to and from the bureau by the cars and has proven of immense value in the prevention of crime.

The Inspector of Carriages, a Captain, is in direct control of all hackney carriages, sight seeing automobiles, taxi cabs, wagon licensing, and public automobiles of all descriptions for their proper supervision, regulation, and licensing.

The Police School is under the command of the Department Drill Master, and is responsible for the instruction of recruits coming into the department, including general instructing of the whole department in law, military drill, shooting, first aid, machine guns, and the uses of gas, gas masks, and bullet proof vests. Under this unit comes the inspection of uniforms, car of equipment, etc.

The city's vast traffic problem is controlled by a Traffic Division under the command of a Deputy Superintendent who is directly responsible for free and rapid traffic movements, the prevention of accidents due to traffic, freedom and safety of pedestrians in their use of the streets, proper enforcement of traffic regulations, parking regulations, and control of vehicular traffic in all its phases.

The City of Boston is divided up into police divisions, which take up some specified section of the city and are under the command of a Captain. These divisions for police purposes are in turn divided up into routes or beats to which a patrolman is assigned for proper patrol and supervision and is responsible for all law enforcement to his Captain.

The police officers assigned to the various divisions, are also divided into or assigned to one of three platoons, one day and two night platoons. The day platoon goes on duty at 8.45 A.M. and remains on duty with the necessary interval for lunch until 5.45 P.M. The first night platoon goes on duty at 5.45 P.M. and remains on duty until 12.30 P.M., and the second night platoon goes on duty at 12.30 A.M. and remains on duty until 7.45 A.M. The great majority of patrolmen are assigned to a route, a fixed area, in which they must remain on duty, patrolling their routes, pulling boxes at regular intervals to show they are patrolling their routes and to receive orders. Their work is generally confined to the arrest of criminals, detection and prevention of crime, and the protection of life and property on their own particular routes. Of course, if they are given descriptions of persons wanted, stolen cars, and other police information of importance, they will arrest such persons wanted, locate such cars or stolen property if found on their routes, but generally speaking their work is confined to the limits of their own route.

When a crime of serious importance has been committed and the perpetrator has escaped, the first officer on the scene of the crime makes an immediate report of the whole affair, with the best description, names, addresses, and other information available that will help in capture of the perpetrator.

This in turn is relayed from the police stations, to the Bureau of Operations. Immediately every piece or unit of police organization is set in operation to effect their capture. Through the radio, teletype, telephone, or telegraph systems, every officer on duty is notified within a short time of receiving the alarm,including the surrounding cities and towns and the state police who are all put on the alert for the person or persons wanted.

Whether or not the criminal's name, address, or description,including the make and registration of his automobile, is known,all officers are on the lookout for him or information of him just the same. Traffic officers and route men watch out for automobiles and persons answering the descriptions given. Members of the vice squad seek information from prostitutes and members of the underworld. Suspicious persons are arrested and brought in from all parts of the city, questioned, their stories checked upon, and clues run down.

In the meantime, detectives from headquarters are busy running down or seeking other clues; hunting out the criminal's friends, searching his home, talking with his lady friends, sending out descriptions, and alarms to other cities and towns where he might have taken refuge.

At headquarters witnesses are brought in to identify suspects in the daily lineup, or to examine the "Rogues Gallery" for possible identifications. If fingerprints are found at the scene, they are carefully preserved, developed, and compared for the purpose of identifying known crooks. The department photographer has taken photos of the crime scene from all angles so that it will be permanently visible and an important feature in evidence, or for future use.

The "Modus Operandi" or method of operation, that is, the way the crime was committed, is checked upon and noted by experts, who seek out known criminals who act in a similar manner and find out what they were doing at the time of the commission of the crime. So all police officers should thoroughly understand just what happens when they make a report of a serious crime, the necessity of gaining all information possible, with proper descriptions, and pedigrees, and to relay it immediately to the station house. They should realize that they are not alone in their fight against crime, that our department is a well-trained, up-to-date police force, and that all are cooperating for a better protection of life and property, detection and arrest of criminals and public commendation as a whole.

Sometimes, of course, the criminal is caught in the commission of his crime, which greatly facilitates police technology in bringing him to justice. However, we are gradually getting more scientific and making a greater study of criminology in our dealings with the criminal element. We have the old Bertillon System of Identification superseded by the more modern Finger Print System; Handwriting Identification, which makes practically certain the identification of any handwriting; the science of Foot Print Identification; Forensic Ballistics, or the science of bullet expulsion from guns, revolvers, pistols, and similar weapons as is necessary for evidence in court; photography of crime scenes, weapons, persons wanted, prisoners, etc.; also microscopic experts who are capable of determining the component parts of various liquids, powders, and other articles that may be of value in settling or determining a point in question. So it may be safely said that our police department is not one bit behind any police department of the world in the matter of scientific investigation or equipment.

You will hear a lot of talk about the Scotland Yard and other European police departments and the wonderful success they have in the detection of crime. No one wants to take any credit away from these departments. They are excellent police organizations and their success in dealing with criminals is really a credit to them and the countries whom they serve. However, there is no country in the world that has the same problems to contend with that we have in our fight against the criminal element. The size of our country with its modern means of transportation and no system of passports required to go from one point to another within its borders; the large foreign born population in comparison to other countries where foreigners are a very small per cent of the population; the lack of respect for law and order; politics; lenient courts;

and the different fads and fancies of certain well intentioned societies in dealing with criminals, etc.; then we have the insistence of the press in publishing news of criminal acts in the most sensational manner, even publishing news vital to the prosecution of the same, which in many cases, places the criminal on his guard and works to the detriment of the police and public whom they serve.

Under these handicaps and with all that has been said in criticism of our department, I believe that no department has any better personnel, that we are as efficient and up-to-date as any other department of the whole world, and in my opinion, that none of these departments could do any better under conditions as they are, and I might go further and state that they would probably not have the success that we have had.

Chapter Thirty-Nine

THE POLICE DEPARTMENT IN COOPERATION WITH OTHER DEPARTMENTS OF THE CITY OR STATE

There have been a number of departments, boards, and committees, the heads of which are appointed or elected to carry on the business affairs of the city or state. In most cases, they are appointed by the mayor of the city and are responsible to him for the proper performance of their duties.

Many of these departments have the power to pass their own laws or by-laws, and have separate and specific duties to perform in which it is not necessary that any one of them interfere with or interest themselves in the operations of the other. The Police Department however, as the law enforcement body of the city, is particularly interested in those departments that have the power to pass laws, so that they may properly function and enforce all their rules and regulations.

The police, because they are abroad at all hours of the day or night, with their knowledge of persons, neighborhoods, and conditions, in addition to enforcing their particular laws, can render valuable service to them in notifying them of conditions and particulars that would be of value to such department and cooperating with them in any manner that is possible under their powers as police.

Unusual conditions are liable to happen at any time to all of these departments, and if it were not for the assistance of the police it would have been practically impossible for any of them to control it. For instance, the Fire Department might have a general alarm fire which may be getting beyond their control; the Public Works department, a cave-in, a break in the water mains, an exceedingly bad storm or fall of snow to contend with; the Health Department, a contagious disease epidemic, an insect pest, or an effort to put dangerous food on the market, to take care of immediately. Common sense tells us that the police must act in these cases. We are just as much responsible for the protection of life and property under these conditions as the particular department concerned.

POLICE COOPERATION WITH THE FIRE DEPARTMENT

All premises or places that are required to be licensed by the Fire Commissioner or Fire Marshal, should be closely observed by the police to see that they have the required license and that they live up to the laws and conditions of such license. They must strictly enforce all laws relating to the sale, transportation, and storage of explosives, combustibles, etc., and that persons engaged in blasting observe all necessary precautions and comply with the regulations governing their permit. Report all violations of the laws, rules, and regulations relating to such to the Fire Commissioner or Fire Marshal as the case may require.

While patrolling their routes to be on the alert for fires and summon apparatus if necessary. See that the fire department has the right-of-way and direct them to the shortest way to the fire. Protect fire alarm boxes and equipment from injury and apprehend those who will sound false alarms. Allow no parking in front of fire stations or fire hydrants.

At the conflagration, carry out the orders of the Chief or superior in charge. Keep the public at such distance away from the scene as is consistent with safety and to give the firemen opportunity to fight the fire. Establish fire lines and keep all unauthorized persons and vehicles outside such lines. Take care of the injured, of property removed from the burning building, divert traffic if necessary, prevent vehicles from driving over and persons from walking on fire hose, render assistance in saving lives or property and be alert in securing evidence of incendiarism and arresting offenders.

FIRE DEPARTMENT COOPERATION WITH THE POLICE

The Fire Department assists the police by reporting all violations of the fire laws found on their tours of inspection. They aid the police in securing evidence in arson cases and their experts testify to the ingredients used by such "Burners". Their emergency crews respond to emergencies such as cave-ins, persons caught in elevator wells, and cases where ladders and tools are needed. They can be of great assistance to the police in the suppression of riots, mobs, disorders, etc., by drenching them with water from a fire hose.

POLICE IN COOPERATION WITH THE PUBLIC WORKS DEPARTMENT

One of the policeman's most important duties is to examine the condition of streets, avenues, roads, and other highways, to ascertain whether or not they are in a dangerous condition. If so, he must take precautions to remedy and guard against accidents, reporting such conditions to his commanding officer who will contact the necessary authorities. It is his job to see that all persons opening or placing materials upon the street have the necessary permits; that streets are not closed without proper authority, and no longer than called for in the permit; that proper guards, barriers, lights, and other necessary precautions are placed both day and night on such excavations or obstructions. They must guard against interference with the employees of the Public Works and the general public while engaged in their work. They must warn abutters of accumulations of snow and ice or other encumbrances on the sidewalks or streets, and prosecute wherever necessary.

In an emergency where a water main bursts, or a cave-in occurs, get in touch with the station immediately so that the proper branch of the Public Works may be notified. Then take steps to prevent accidents by erecting guards, roping off streets or areas, and diverting traffic, thus preventing those unaware of the danger from getting too close to the scene of the trouble, or interfering with the emergency crew that may be working there.

PUBLIC WORKS DEPARTMENT IN COOPERATION WITH THE POLICE

They keep the streets, avenues, and highways in good repair, issuing permits for the opening of streets, etc., supervising excavations in highways, thereby preventing unguarded and unsafe conditions in the streets and reducing the number of street accidents. They give ample notice of the closing of such streets, the length of time of such closing, so that the police can take whatever precautions necessary to prevent accidents and facilitate traffic.

POLICE DEPARTMENT COOPERATION WITH THE HEALTH DEPARTMENT

The police enforce all laws, ordinances, rules, and regulations relating to health, sanitary conditions, and pure food. In emergencies we give ambulances the right of way, direct them to the scene of the accident, etc., and render any necessary assistance under these conditions.

In an epidemic of contagious or virulent disease, the police assist the Health Department by reporting new cases, by providing ambulances for transporting such cases, and by enforcing all sanitary regulations adopted by such department to control or fight the epidemic as the situation may require.

In regard to the sale or distribution of unfit food, the police cooperate by watching suspected shops, slaughterhouses, warehouses, and buildings that may have such food in their possession and notify the Health Department of such conditions or new developments, so as to prevent it from being sold or distributed.

The police always report to their superiors anything that may be a health menace that comes to their attention. They make special efforts to prevent noise, and enforce all laws relating to traffic in the vicinity of hospitals and sanitariums. They inspect all places licensed by the Health Commissioner, such as massage parlors, vapor baths, hospitals, manicurists, etc., and make special effort to locate and report cases of contagious disease on their routes.

HEALTH DEPARTMENT IN COOPERATION WITH THE POLICE DEPARTMENT

The Health Department cooperates by notifying the police of conditions that exist that might be a health menace or a source of disease in the City of Boston. They strictly supervise the granting of licenses to pedlars selling fruit and vegetables, etc., and give particular attention to complaints against other licensees granted by this department when the police are the complainants. They give active support to the police in the prosecution of violators of the Health Laws; by supplying ambulances, doctors, and medical supplies in cases of emergency, catastrophe, fires, or other cases where the lives and safety of the public are endangered.

POLICE DEPARTMENT IN COOPERATION WITH THE BUILDING DEPARTMENT

The police officer examines all new buildings, alterations on buildings, etc., to see that contractors and builders have the necessary permits and are living up to its requirements. They report all houses, buildings, sheds, or fences that may be in a condition that is dangerous to the safety of the public. In emergencies, they rope off such buildings and places, notifying the inhabitants if any, draw fires, shut off gas and electricity, form police lines well away from the danger point and protect employees of the Building Department. See that buildings that are condemned are not inhabited or used for any purpose after such condemning.

BUILDING DEPARTMENT IN COOPERATION WITH THE POLICE DEPARTMENT

The Building Department cooperates with the police by responding quickly in emergencies and inspecting all buildings reported unsafe by the police. They notify the police of houses and buildings that are a source of danger or that have been condemned, also by issuing permits to proper persons building new or making alterations in old buildings.

POLICE COOPERATION WITH PUBLIC SCHOOLS

Everyone knows that the proper maintenance and operation of our city schools is an important part of the city government. The police make every effort to enforce all laws relating to schools and children of school age, by observing such children going to and from school and inquiring into reason why such children may be abroad during school hours, and by protecting them at school crossings while attending the various sessions.

The police watch out for those persons who might molest, assault, or have other evil design on children. They watch places where children congregate, to see that no one is influencing them to stay away from school to engage in some juvenile delinquency, or in any way detrimental to the child's care or welfare. The police give special attention to schools and school property to protect them from the depredations of boys who are disposed to break glass or destroy such property after school hours.

PUBLIC SCHOOLS IN COOPERATION WITH THE POLICE DEPARTMENT

School teachers cooperate with the police by calling to our attention any criminal acts committed against any of their pupils; and assist us in cases against guilty children. They notify us of any changes in school sessions and instruct their pupils in the necessity of obeying the hand signals of police officers at school crossings. They instill respect for law and order in the minds of children and explain the policeman's part in government.

POLICE IN COOPERATION WITH THE LICENSING BOARD

The Licensing Board is a very important factor in our city government. It is in control of the issuing of most licenses in operation in the city and a large part of the city's revenue is obtained from it. So it is imperative that the police render every assistance to this board that is possible.

A license is permission granted by proper authority to do something that otherwise would be unlawful, wrongful, or inoperative. All licenses issued are written or printed. No one can have an oral license.

Before any license is granted, the police must inquire into the character and qualifications of the persons desiring the license; the premises, as to fitness and reputation; also whether or not it complies with the laws, rules, and regulations of the Fire, Building, Health, and Licensing Departments.

After a license is granted, we supervise the licensees to see that the license is only used for the premises designated for the current year; that it is in the name of the person operating the place; that the license is displayed in an easy and accessible place so that it can be readily seen; that such licensed places comply with the building, health, water, and license laws, and the rules and regulations of the Licensing Board; that all conditions relating to minors and children are strictly adhered to; that hours of opening and closing are strictly observed; and that criminals and suspicious persons are not making the premises a meeting place or place of resort.

LICENSING BOARD IN COOPERATION WITH THE POLICE DEPARTMENT

The Licensing Board relies on the reports of the police as to the character and qualifications of persons desiring licenses, and pay serious attention to the recommendations of the police. When such places are complained of by the police and proven, they put into effect some disciplinary action to prevent repetition of such actions. They issue licenses only to desirable persons, and notify the police of places operating without a license or in violation of the law, or rules and regulations.

POLICE COOPERATION WITH THE REGISTRAR OF MOTOR VEHICLES

The police enforce all automobile laws and see that all chauffeurs and operators are licensed for the year. We report all accidents where motor vehicles are involved to the Registrar. We inspect cars as to registration and mechanical defects. We have direct supervision of all taxi cabs. We prosecute those who operate motor vehicles under the influence of liquor, or who leave the scene of an accident without making themselves known. We report and search for stolen cars and notify him of their recovery. We distribute applications to be licensed operators, question books, and accident forms to the public. We collect licenses and registrations when they are revoked. We notify owners of the recovery of their stolen cars and investigate cars that have their engine or motor numbers tampered with.

REGISTRAR OF MOTOR VEHICLES IN COOPERATION WITH THE POLICE

The Registrar of Motor Vehicles cooperates with the police by giving them the names and addresses in book form of all licensed operators and registered car owners. He notifies us of cars that are illegally registered and of operators not licensed. He will suspend or revoke license to operate for serious violations of the auto law, or criminals who use an automobile in the commission of crime. He will provide automobile experts to assist officers in their court cases where their testimony will clear up a point in question.

COOPERATION BETWEEN THE BOSTON POLICE AND OTHER POLICE DEPARTMENTS OF THE STATE OR NATION

The Boston Police are always ready to cooperate with and render any assistance possible to other departments in their fight against crime. Whenever a murder, holdup, safe job, or other serious crime is committed in some other city or town, we are always ready to render service. Members of other departments are always welcome at our headquarters and the segregated files, fingerprint files, and our ballistic and scientific unit are at their service. We invite them to attend our daily lineups with witnesses for the purpose of identifying criminals who may have committed crimes in their jurisdictions. We willingly serve their warrants, summonses, seek out missing persons, or other information required by them in their daily police work. We are pleased also, to state that all police departments are willing to treat us with the same courtesy and cooperation that we extend to them.

We render the same assistance and courtesy to the Probation Department, Courts, and the Parole Board, in regard to information they may require as to names, addresses, criminal history, of defendants before the courts, or in being considered for parole.

BOSTON POLICE COOPERATION WITH THE FEDERAL AUTHORITIES

There has always been some doubt as to the authority of local officers in enforcing the Federal laws. The federal authorities are the logical officers to enforce Federal laws, but as citizens of the United States, we have the same right to make arrests as they have for such offences. When a crime is committed in violation of a Federal law, we cannot turn our backs and walk away from it.

Aside from this duty, common courtesy implies that we cooperate with the Federal authorities. Having this in mind, the equipment, personnel, and records of the department are always at their disposal.

Where we come in contact with Federal crimes, such as counterfeiting, smuggling (narcotics, aliens, dutiable goods, etc.), robbery of the mails, or crimes on Federal property, we make immediate arrests, but where our evidence or information is not enough to justify an arrest, we transmit such information to the Federal bureau having control of the matter in question. From then on, we act with or upon the request of the Federal authorities.

When an arrest is made for Federal offences, the proper Federal bureau is notified; the defendant is booked, fingerprinted; evidence marked for identification, and properly cared for.

When the culprit is arraigned in court, the Boston police officer, if so requested, confers with the Federal operatives or the U. S. District Attorney as to the evidence he is to present in court and the evidence he must present to identify articles seized.

While all this cooperation between the different departments, boards, bureaus, or commissions, might be in some cases simply a matter of comity between them, yet its results are more far-reaching. It means greater fire protection, thus saving lives and property; better and safer buildings; less obstruction, misuse, or occupation of the streets, making the highways safer and better; more revenue for the city by compelling persons to have proper licenses to carry on certain businesses, and by such businesses being conducted according to law. Motor vehicles, trucks, taxicabs, etc., are carefully supervised to see that they are properly licensed and proper persons operating them - thus reducing cause for accidents.

All this results in the public having better protection from criminals, accidents, and fraudulent practices. Through close cooperation of all police departments, there will be a better understanding and fulfilling of police functions. Through the same cooperation with other departments of the city or state, the best interests of the public will be protected and will bring about the best result - Efficiency - and make Boston a better place in which to live.

Chapter Forty

POLICE REVOLVERS - CARE AND USE

All police officers recognize the fact that one of the most important duties of an efficient police force is the protection of life and property. To aid the officer in this most important work, he is authorized by law to carry such weapons as may be determined by the mayor and police commissioner. The rules and regulations of the police department require that its members carry upon their person at all times while on duty, their police clubs and their police revolvers, fully loaded with ball cartridges. They are held responsible for the cleanliness of the weapon, and should see that it is in proper working order and repair at all times.

Our legislative bodies gave us the right to carry a revolver for our defense and the defense of the life and property of others, and our rules and regulations are very explicit about carrying them on duty, but unfortunately there are few police officers who are really well trained in the care and use of their firearms.

No doubt, there are hundreds of officers who consider themselves highly efficient in police matters and would resent any implication that they were not; yet these same officers would be a menace to the public in an emergency that would require the use of their revolvers, because of their ignorance of the proper methods of handling a revolver and their inability to shoot and hit the object aimed at.

The criminal of today more than any other time in the history of our country is generally armed, and carries his gun with the express purpose of preventing his arrest. They have no hesitation in killing a police officer or any other person who would try to prevent their escape, as being arrested means a long term in prison. Too often this type of criminal knows how to shoot and statistics show that for every gun man killed by the police, six officers have paid the extreme penalty by being killed by criminals.

So common is the knowledge that the average police officer is a poor shot, that it is a matter for joking among criminals. They will take what appear to be desperate chances in pulling off a holdup, blowing a safe, etc., in a vicinity where there are always numerous officers on duty - taking what appears to be all kinds of chances of being shot at by these same officers - and generally making their getaway, because the police cannot hit what they are aiming at. One criminal, on being questioned as to the chances he took in pulling off a robbery where there were three officers on duty at a nearby corner, said, "I don't mind the 'cops' shooting at me, as I know they can't shoot." Unfortunately, in many cases, he is right.

In making an arrest in some parts of the city, 99 times out of 100, and in some cases not once in a life time would the policeman's revolver figure in making an arrest. This fact is apt to make the average policeman careless, and in many cases, it has been known that officers in making an arrest of a desperate character, did not have their revolvers or clubs with them. In more than one case of this kind, an officer has paid for his carelessness with his life. While as stated above, the officer's revolver seldom plays a conspicuous part in the arrests of criminals, yet the knowledge that an officer has one in his possession, is trained in its use and, if necessary will use it with telling effect, will be a deterrent to all desperadoes who otherwise would have no hesitation in using a revolver to shoot an officer.

This department is equipped with the Colt Police Positive, Double Action Revolver. It shoots six shots, has a 4-inch barrel, blue steel finish, walnut stocks, weighs 20 ounces and is 8-3/4 inches in length. 38 calibre.

The following is the nomenclature of the visible parts:

(1) The barrel. That part of the revolver through which the bullet passes after being fired. It contains what is known as rifling, which causes the bullet to revolve, thus increasing its velocity and accuracy. The rifling is in turn divided into two parts, the lands and grooves. The grooves have a depth of .0035, and six of them in each barrel, and have a left twist, one turn to 16 inches of barrel.

(2) Sights. The revolver is equipped with fixed sights. The front sight is a semi-circular piece of steel fastened near the front end of the barrel. The rear sight is a small groove on the top of the rear end of the frame.

(3) The cylinder. The large roller shaped piece of steel which is bored for six chambers to hold the cartridges.

(4) The frame. The main part of the revolver and is all in one piece.

(5) The ejector. This part is really a part of the cylinder and consists of the ejector rod, rod head, ejector, and ratchet which ejects the cartridges.

(6) Latch. This is a small piece of steel on the left side of the frame which is used to lock and unlock the cylinder.

(7) Hammer. Is that part which is used in cocking the piece on the upper part of the frame and also when the trigger is pulled the hammer falls and discharges the bullet. Attached to the hammer is the firing pin, a small pointed piece of steel that hits the primer and discharges the cartridge.

(8) Trigger. Underneath the frame and a part of it, is the trigger guard, a semi-circular piece of steel made expressly for the protection of the trigger which is inside of the guard and is the piece on which the finger is pressed to discharge the piece.

(9) Butt. The butt is the handle of the revolver. The lower front part is called the toe of the butt and the lower rear part is called the heel of the butt. The handles are called the grips, left and right.

(10) The side plate. Is a plate on the left side of the revolver which is held in place by two small screws. This is taken off when one wants to inspect the inner part of the revolver.

(11) The crane. Is that movable part that holds the cylinder to the frame.

The Colt revolvers are all equipped with what is known as the Police Positive Lock, which operates between the frame and the face of the hammer. When the trigger is drawn back as the hammer is cocked or drawn to the rear, the positive lock or safety is drawn downward permitting the full blow of the hammer to fall directly on the primer of the cartridge if the trigger is held in position.

At all other times, the positive lock prevents the hammer nose from coming in contact with the primer.

If the revolver is dropped even though it contains six cartridges in the cylinder, accidental discharge is impossible through this feature. In plain words, the only way this revolver can be discharged is to pull the trigger.

The following rules must be followed out if a police officer is to secure the limit of usefulness and dependability from the revolver he carries:

(1) The officer must familiarize himself with the essential parts of the weapon and the names thereof.

(2) He must know the working parts and how to clean and operate them.

(3) He must practice loading and unloading his weapon.

(4) He must make certain his gun is unloaded before examination, cleaning, or oiling it.

(5) The weapon must receive the best of care. It should be examined frequently to see that all working parts are in perfect condition.

(6) Prevention of rust is an important essential. Removal of rust spots is imperative.

(7) Thoroughly clean the working parts after use. Give particular attention to the cylinder and the cocking mechanism, also the inside of the bottle. Remove every trace of powder residue. Your safety may depend upon unceasing vigilance in this regard.

(8) Always use a light, free flowing oil.

(9) Careless or playful handling of the gun should never be tolerated.

(10) Before loading, open and make certain the bore is free from any obstruction.

(11) Do not point your weapon in any direction where it would matter if it went off.

(12) When firing to attract attention, shoot into soft ground, a vacant lot, or a piece of wood - never in the

air or against anything that will allow the bullet to glance off or ricochet.

(13) "Double action" means firing the weapon by raising the hammer with trigger pressure, without previously cocking the hammer with the thumb. With a little practice you can fire six effective shots in twelve seconds, "single action" or cocking the gun between shots. Experts do it in half that time.

(14) Never fire while running; halt, cock the hammer and take aim. Your shots will then be effective.

(15) When running, point the muzzle toward the object to be shot at. Do not raise the hammer or have the finger on the trigger while running.

Upon the quickness and dexterity with which you can get your gun into action, often depends your safety. The man who is "quickest on the draw" has a big advantage over his adversary. When you have the drop on the other fellow it is seldom necessary to fire.

Therefore, you should frequently practice drawing the revolver from the holster or pocket until you can do it quickly and accurately. In this practice, be sure your gun is unloaded.

AIMING AND FIRING

The following is a method of learning to hold, sight, and shoot the revolver.

"MAKE SURE YOUR REVOLVER IS UNLOADED"

First, face the target with an empty revolver. Then execute a left face, with the feet about 15 to 20 inches apart, right foot pointing towards the target, left foot at a right angle with the right foot. Body erect and weight of the body distributed evenly on both feet. The right arm extended without stiffness towards the target, the height of the shoulder, arm in prolongation with the shoulders, and hand the height of the eyes. The reason for this position is that it affords the smallest possible target for a person shooting at you, and the recoil of the discharge of the revolver is taken up by the whole body and not the arm alone. The revolver is held in the right hand without any support of the elbows, left hand, or body. Cock the piece with the right thumb by drawing back the hammer.

Second, in aiming, close the left eye, look through the rear sight notch with the right eye at the bull's eye, gradually bring the front sight up under the bottom edge of the bull at 6.00 o'clock as close to the bull as possible, so that the rear sight, front sight, and bull's eye are on the same line. Remember, do not have the front sight any higher or lower than the sides of the rear sight notch and be sure that it is exactly in the center of the notch. Be careful about canting the piece to the right or left. The revolver should be grasped by the thumb and last three fingers of the right hand - the index finger is held outside the trigger guard until ready to fire. The hand should be held high on the butt of the revolver and directly behind it.

Third, when ready to fire, the index finger should be placed upon the trigger, so that the pressure on the trigger will be applied by that part of the finger between the first and second joint. When the sights are properly lined up, he should commence a gradual pressure on the trigger, at the same time holding the breath, perfecting his aim on the bull's eye, until the piece is discharged, "WITHOUT HIS KNOWING WHEN IT IS GOING OFF." In other words, "DO NOT GIVE A QUICK OR SUDDEN PULL JUST AS YOU HAVE YOUR SIGHTS LINED UP." After the hammer falls, still continue to look through your sights for a second, to decide just where your sights were at the moment of discharge, and from this you will be able to call your shots. Most revolvers are sighted in the factory so that in aiming at the bottom of the "bull's eye" at 6.00 o'clock, the bullet will strike in the center of the "bull's eye". In some cases, due mostly to some peculiarity of the man sighting or aiming, the revolver may shoot low, high, to the left, or right. Check up your aiming and trigger squeeze and usually you will find what the trouble is. If you appear to be aiming and holding correctly, this can be overcome by aiming a little higher, lower, to the left, or right as the case may be. Better still is to have your gun taken to an experienced gunsmith who will make any changes necessary to get you on the Bull.

Fourth, after firing with an unloaded gun until you are satisfied you are holding, aiming, and squeezing the trigger properly, you are now ready to fire with a loaded revolver. The aiming, holding, and trigger squeeze is just the same as with an unloaded gun; but don't let the discharge of the cartridge get you unnerved and cause you to flinch. Remember about still looking through the sights after its discharge and call your shots.

In "Rapid fire" the aiming, holding, and trigger squeeze is just the same, except that the pressure is applied to the trigger faster, and the cocking of the piece is done with the hand in the same position as for firing, without lowering the arm and as fast as possible. This requires considerable practice, but after a while you will be able to fire five well aimed shots in 10 seconds.

If you are aiming, holding, and squeezing the trigger properly, you are bound to be a good shot. Remember that experts put in hours of practicing with an empty revolver (dry shooting) which is better for the beginner than actual firing. You should drill yourself on this, any time you have a few moments to spare, and of course the proper place to practice in. Remember about being careful with a loaded gun. Always unload your gun first, before such practice, then to be sure it is unloaded, unload it the second time.

After you have become fairly proficient in shooting the revolver, try to improve your method of drawing your revolver from your holster, etc. After you have become dexterous in reaching for and drawing your revolver, combine that movement with sighting, aiming, and squeezing the trigger, of course making sure the gun is not loaded.

Begin by using slow, deliberate motions. Work thus until you follow the motions of reaching drawing, cocking, sighting, aiming, firing automatically with no hitch or fumble. Then gradually increase your speed. You will be surprised after a little practice, how quick you can get your gun into action. But do not become impatient. The expert is forever practicing so as not to lose his dexterity after he has acquired it.

FIRING A REVOLVER IN LINE OF DUTY

A policeman who fires his revolver in a public place takes many risks, therefore he should thoroughly understand what he is doing before he attempts to fire it. He must answer for his act and for its results to his own conscience and perhaps to the law and the police department. In its moral aspect, the matter concerns himself alone, but his legal responsibilities may become a question for the courts and his conduct as a policeman is judged by his superiors. An emergency gives no time for study, little for thought, and yet, through timely preparation, he must be ready to act instantly and without fear, but with the good judgment that comes from knowledge. Not even the best police rule can be a perfect guide, and this rule is set up not because it is believed to be perfect, but because it is the duty of the department to direct its members as best it can in so dangerous and difficult a matter. Rule 47, section 4.

The commissioner will not hold to censure or other punishment, a policeman who fires his revolver while in the performance of his duty, for any of the following reasons or purposes:

(a) To defend himself from death or serious injury.

(b) To defend another person unlawfully attacked, from death or serious injury.

(c) To effect the arrest or to prevent the escape, when other means are insufficient, of a convicted felon or of a person who has committed a felony in the policeman's presence.

(d) To kill a dangerous animal, or to kill an animal so badly injured that humanity requires its removal from further suffering.

(e) To give an alarm or to call assistance for an important purpose when no other sufficient means can be used.

The first three cases cover the discharge of a revolver, whether with intent to shoot the opposing person or to frighten him into submission.

In the first case, the law would surely be on the side of the policeman who fired to strike, and in the second and third case, there is practically no doubt of his legal right. Firing into the air or at the ground is dangerous to innocent persons and is a risk for the policeman, for he might find it hard, in case of injury to such persons, to prove the direction of his fire. On the whole, therefore, it is wise to avoid firing in any of the first three cases, unless conditions are such as to justify the shooting directly at the malefactor.

It must be remembered, moreover, that when a policeman fires in any of these cases, his motive as known to himself may not be sufficient justification in the eyes of others; he must be able to show, if challenged, not only that it was, for example, in self defense that he fired, but that the conditions were actually such as to warrant him in believing that he was in danger of death or of grave injury.

The discharge of a revolver to aid in the arrest or to stop the flight of a person who has commited only a misdemeanor is forbidden; but when such a person becomes a dangerous assailant, or when an attempt is made to rescue, by violence, a prisoner of any grade even though guilty of no more than a misdemeanor, the situation immediately changes; the policeman must meet force with force, and the use of his revolver as a last means of protecting himself and upholding the law will be approved of by the commissioner. Rule 47, section 5.

Chapter Forty-One

SERGEANTS

The greatest asset the police division or unit can have for the promotion of efficiency and discipline, is a good sergeant. This is so much so, that great care and judgment should be used in his selection.

An ideal sergeant should have the following characteristics: a high sense of duty, cheerful obedience to orders, force of character, honesty, sobriety, and steadiness; combined with a thorough knowledge of the laws and ordinances and the rules and regulations of the police department.

As obedience is the first duty of all policemen, he should exact prompt compliance with his orders by those to whom he gives them, but above all, he should be an example of prompt, unquestioning obedience himself. As the sergeant is usually the first one given the orders of the captain, he should make it his duty to see that the wishes of the captain are carried out by the men of his platoon, more especially so when these orders originate from the commissioner or superintendent.

All lawful orders must be promptly obeyed. One who can obey orders can usually order others. Before you can carry out orders they must be thoroughly understood. When a superior gives you orders to carry out, if they are written, printed, or oral, you must read, listen, and digest them carefully. If you do not understand them, ask your immediate superior to explain them to you.

When you are giving orders to others, be sure they thoroughly understand them. Remember they cannot carry out orders if they do not understand them. Every order should be explained and promulgated in such a manner that there can be no misunderstanding of what you desire or mean.

In carrying out and transmitting orders, you should be careful that such orders do not come to the knowledge of disinterested persons, and especially those who may be criminally interested.

The sergeant should be especially cautious in matters of propriety and self control; be prudent, wary, and discriminating. He should set an example of discretion, skill, and industry.

Skill means ability to do things well, to distinguish things properly, to use one's knowledge to the best advantage, to act with intelligence, readiness, and ability.

If the sergeant does things well - for example: if he is an expert revolver shot - the patrolmen are likely to follow his example, and try to be as good as he is. He might be an expert on drugs, violations, or gambling - the men under him are bound to be well versed in these things from observing his methods of action on raids, or from his instructions.

Industry means diligence in any employment, pursuit, or occupation; steady attention to business in hand. It is well known that men profit by the example set, whether policemen or any other line of business. Men as a rule, imitate their superiors. If a sergeant is wise and careful in his conduct, and refuses or refrains from making unnecessary criticisms, it will be a strong incentive for the men under him to do likewise. This will tend to help discipline and good fellowship among the patrolmen. If the sergeant is diligent in his duties and attentive to the derelictions of the men under him, they are sure not to be shirking their duty and it will always be more possible to get good work out of them, when it is known that the sergeants are alive and attentive to their own duties.

The quality of the work done by the divisional sergeant is of great importance both to the department and himself. He is in close contact with the public and the patrolmen on his division, and his failure or his success in dealing with the men under him or in seizing opportunities for effective police work, determines largely his chances of promotion not only to the grade of lieutenant, but to the still higher grades in the police force. Rule 26, section 1.

Rule 26, section 2. Sergeants shall have immediate charge of the patrolmen on their routes, shall instruct, and assist them in their duties, and shall be responsible for their general appearance, good order, and discipline. He should not be a military martinet, but more especially should he not fall into the error of becoming too familiar with the men he commands.

Sergeants are a great help in bringing about the proper esprit de corp that should exist in every division. They should be especially careful never to countenance actions or behavior on the part of any officer that will bring disgrace to the Force, or upon innocent families as well. They can do much to prevent the commission of offences by the patrolmen under them, both on and off duty. Such prevention is as much their duty as reporting offences after they have been committed; in fact, it is much better to prevent a violation than to report it after its commission, and have the officer, especially a young one sent before a trial board and censured or given punishment or even worse.

Where a patrolman's conduct is such that it is bound bring discredit or disgrace to the department, or endanger the reputation of the entire Force, there should be no quibbling or hesitation on the part of the sergeant in bringing that man before a trial board or if necessary a court of justice. Never let such an officer be shown up by the citizens themselves, show the public that no such person can remain a member of our department and get away with it. When a case of this kind occurs, and the guilty party is shown up by a citizen or the public themselves, it has a lasting effect on public opinion concerning the department, and is apt to create the belief that all police are alike, or they would have taken care of this renegade themselves without any outside interference.

The proper place for the divisional sergeant is on the street with his men. They are looking to him for advice and counsel in police matters. Often this assistance is the means of making a would be indifferent officer into one of complete efficiency, by giving him confidence in himself.

In times of great emergencies, he is always in charge of a number of men. They are looking to him for orders and proper leadership. Often the character of this leadership will go a long way in determining the sergeant's qualification for still higher positions in the department.

In an emergency, parade, strike, or other gathering where there is liable to be considerable excitement, "Don't lose your head." You, above all are expected to have your head about you. Be sure to use the men that are sent to report to you, don't let them stand around and do nothing. For example: a shooting affray. Detail a man at each entrance with orders to prevent anyone from leaving or entering, search the house with others, at the same time have others, if you have enough, to search the vicinity for the perpetrator or witnesses. At parades, you are usually given orders as to the time of start, the time to shut off traffic, where to make passage ways, etc.; be sure and transmit these orders to your men, as they cannot enforce orders unless they have been told about them. If you are going to pull off a raid, have men assigned to the different entrances, floors, rooms, etc., before you start out, so that every man knows his job when he arrives at the scene. In handling large crowds, where there is danger of people being hurt, lead your men, tell them what to do, select places where openings can be made that will relieve some of the congestion, in other places drive all persons in the opposite directions where the passage of such persons will receive the pressure in the forbidden area. Remember in these cases ACT, DO SOMETHING, even if your methods may be poor, it is better than doing nothing and having a detail of men standing around looking at you.

Sergeants are the chief prosecuting officers of their division. They will be assigned from time to time to the more technical criminal cases arising on their divisions, and are expected to have more than an ordinary knowledge of the laws, ordinances, court procedure, and evidence. As such, they are expected and will be required to assist the patrolmen in any matter pertaining to complaints, evidence or court procedure. They are especially required to notice the conduct, department, punctuality, and criticism by the court of those under them.

As the police department is a semi-military body all superior officers should be able to give the necessary commands to march his body of men to and from the assembly point in a military manner. Commands are divided into two classes, the preparatory command and the command of execution.

The preparatory command is given to indicate the movement to be executed, and should be loud enough to be heard and understood.

The command of execution should be given with "emphasis" and sufficient time allowed between it and the preparatory command for the men to understand the preparatory command and be ready to execute it on the command of execution.

At the different "Roll calls" you are charged with the forming up and inspection of your platoon. In inspection the first thing to remember, "Is every man fit to go out on duty?" A sergeant that will allow a police officer to go out on duty who is drunk or in any other condition that unfits him for duty is really as guilty as the offending officer himself. Make sure that every officer knows where he is going. Inspect each officer to see that he is properly dressed for the season of the year or the inclemency of the weather. See that their metal trimmings are shined and clean, that their uniforms are cleaned and pressed, shoes shined, and his badge on his uniform. Inspect his revolver and see that it is in proper working condition and that he has the required number of cartridges. See that he is carrying a regulation club and has his pocket manual and pencil with him.

The following is the method adopted by this department in conducting inspections at "Roll call". At the appointed time, the sergeant places himself about where the right of his platoon or detail is to rest and commands "Fall in". At this command, the men align themselves in double ranks, the tallest on the right, and take the position of "Attention". The sergeant then commands, "Open ranks: march". At this command the front rank executes, "Right Dress", and the rear rank starting with the left foot takes four steps (15 inch steps) backward, (bringing the feet together on the fifth count) and execute, "Right Dress". The sergeant then rectifies the alignment of both ranks from the right flank and commands, "Front". He next commands, "Prepare for Inspection". The men hold their box keys in the right hand and the sergeant proceeds to inspect the platoon. If he is going to inspect their revolvers, he commands, "Rear Rank: About Face: Prepare for inspection of Revolvers." The men then draw out their revolvers, unload the piece and take the position of "Port Pistol", with the cartridges in the left hand. After each man is inspected, he reloads his revolver and puts it in its holster right away. After inspection of revolvers, the sergeant commands, "Rear Rank, About Face: Close Ranks: March." If he has not inspected the revolvers, he simply commands, "Close Ranks: March." The rear rank takes two steps forward on these counts, bringing the feet together on the third count, and resumes its original position. The captain calls the Roll, reads the orders, and assigns the men to their routes, gives the necessary orders for starting the platoon or detail for the street, after which the sergeant assumes charge. The sergeant's place in the platoon is similar to the right guide in any military formation, and if there is more than one sergeant, the other is placed as left guide. When the detail is out of the station, the superior or sergeant in charge may march any place where he can best observe the marching and conduct of his men.

If the platoon or detail is to be marched any distance it should be marched in a military manner, with everyone in step, keeping proper distances, and without fooling or scuffling.

If it is the ordinary evening or morning "Roll Call" as soon as the men arrive on the street they break ranks and proceed by the nearest routes to their relieving posts and relieve the officer on duty. The sergeant selects one of the officers and proceeds with him to his route, and then continues on, visiting each man at least once during his tour of duty.

He should be especially watchful for violations of the law that the patrolmen might overlook and call their attention to them, explaining the proper method of procedure to obtain a conviction in court if they are persisted in.

If the case is one that requires a search warrant, he should have the route officers and adjoining route officers make notes of what is going on, and be vigilant himself to gain the necessary evidence to obtain a conviction in court. If a patrolman reports such a case to the sergeant, he should if he can, name the patrolman in the complaint, and give him credit in the arrests made. This applies to all cases where a patrolman is concerned in the case with the sergeant. We all like credit for what we have done, don't be backward in giving credit to those under you. At the same time, if a patrolman makes an important arrest, the sergeants should refrain from that pernicious habit of literally stealing the case from the patrolman. If the patrolman has not the necessary experience to handle the case, it is your duty to help him with it and see that he conducts it properly. This is more to your credit than taking it away from him and making him think he has been given a raw deal.

Finally, there should be a spirit of cooperation between all the sergeants of the division, so that one sergeant will not be the upholder of all the rules and regulations, while some other sergeant is getting by on this sergeant's work and enjoying cheap popularity with those who are ever ready to violate the rules and regulations. If a division has a reputation for a high standard of discipline, you may be sure the sergeants are pulling together. If on the other hand, its reputation is bad, it is a direct reflection on the sergeants of that division, and sooner or later is bound to result in some drastic action against such sergeants.

Chapter Forty-Two

CAPTAINS AND LIEUTENANTS

The ultimate goal that all police officers are looking forward to is that of captain of a busy division. It is the height of ambition, for the intelligent officer, as positions above that, though filled by officers who at some time patrolled a beat like any other policeman, are above the desires of most officers. So officers who have this goal in mind, must remember that competition is keen, and that he must show extraordinary exceptional ability to be even considered for this high office.

The police division is a sub-division of our police force, and as such it is a part of a large scheme which if properly handled operates as a great machine, and therefore must have at its head one who will see that it functions properly. Judgment must be used in selecting captains who will satisfy the public that they are receiving, by way of protection and security in property and personal rights, a fair return for the money spent, and that this public servant is giving full service for which they pay.

Though many do not seem to realize it, the proper performance of the duties of a division commander, like the proper performance of any other duty, requires work and attention to business. He must realize that a great responsiblity rests on him and that he must organize his division so that only good reports will come from the activities of men under him. To accomplish this, his men must be brought to realize that their work is a profession, a life vocation, an honorable position among men and the title of police officer one to be proud of.

In the efficient commanding of a division there are two kinds of duty to be considered: Government and Administration.

Where there is a strict enforcement of the laws and ordinances of the state and city; compliance with the rules and regulations of the department; instruction, discipline, and in general, a harmonious and healthy condition in a division; you may be sure that it is being properly governed, as these are the prime requisites of "Good Government".

Administration consists of the proper keeping of the arrest book, records, the journal, care of prisoners, etc., and the rendition of reports, requisitions, and returns.

The division commander whose administration is governed by system and care will find the government of his division greatly facilitated.

There should be a sympathetic and whole hearted understanding between the captain and the men under him, which will result in a proper coordination of the two. The captain must have his ideals and ideas so formulated that they will support the work of his men, and result in a lasting memory to the efficiency of the division.

There is no position in the department that will give as much satisfaction in return for an honest, capable, and conscientious discharge of duty than that of division commander. There is a reward for having done his duty to his division that no disappointment of distinction, no failure, can deprive him of. He may be overlooked in giving credit, unfortunate circumstances may defeat his fondest hopes, and the crown of laurel may never rest on his brow, but the reward that follows the faithful discharge of duty to his division cannot be taken from him by any disaster, neglect, or injustice.

He is a small sovereign, powerful, and great within his particular domain.

With regard to his command, the captain stands out in the light of a father to a large family of children. He should be considerate, impartial, and just to his lieutenants, sergeants, and patrolmen; but he must enforce strict rules of discipline. He should make every man feel that he is with him in every lawful act that he does, and where a law is being violated, that he may be sure of his unqualified support in remedying it.

Division commanders are responsible for the proper instruction of the superior officers and patrolmen under them, as is prescribed in the rules and regulations. As the prevention of crime is the primary object of all police instructions, this will be possible when this instruction is intelligent and thorough. The absence of crime and the tranquillity of the public are the best evidence of his instruction and sure signs of good government and administration.

Every captain or other superior officer of the department should bear in mind, there are rules and regulations governing his own conduct as well as that of subordinates, and nothing tends to disturb more the honest, well-intentioned officer than in perceiving his superiors playing fast and loose with the rules and regulations, while insisting upon their observance by the rank and file.

Most police officers have a decided feeling for their captain, even if it be one of hatred. With regard to the "Superintendent, Commissioner or other high ranking officers", he has respect for them according to their rank, but it concerns him little who they are, as the captain is in his eyes the most important official in the department. So, whether or not the men under him respect him, remains in a large manner in his own conduct and his methods of handling his men.

According to the rules and regulations, the commanding officer is responsible for all that goes on in his division, but even so, he should not try to do all the work alone. He should remember that lieutenants, sergeants, and patrolmen were assigned to him for specific duties and make them live up to the full measure of their responsibilities. Because a lieutenant or sergeant is inefficient is no reason why he should not be compelled to do his full duty. There are too many good patrolmen waiting for an opportunity to become superior officers to waste any time on an inefficient or incompetent superior officer.

In regard to lieutenants the captain should have some understanding with them as to how he wants things done. Don't let them become just "Night Clerks". They are valuable officers and should have some say in assigning the men of their platoons, and in matters concerning the efficiency of the division. At night or any other time when they are in charge of the division, leave them on their own responsibility, their rank calls for it. If something happens on a lieutenant's tour of duty, get them into the habit of cleaning it up before you arrive in the station in the morning. Don't let them get into the habit of pushing everything over to special officers.

If your division is assigned a department automobile, don't get the idea that it is your personal property. It is given to the division for police purposes, and to leave orders that it must not be used while you are away, means your orders will be disobeyed. Surely, if an emergency arises, the officer in command is not going to ask your permission to use it, if it is necessary and he has a right to use any means available for such purpose.

The lieutenant should be the captain's "Right and left Bowers", and it is a lucky captain that has the confidence and cooperation of his lieutenants in the affairs of the division. If so, things are bound to run smoothly.

All that has been said about captains should apply to lieutenants as they generally take the place of the captain in some manner in their official duties. They should make it their business to be ever on the lookout to help the captain in his supervision of the affairs of the division and be ready at any time to assume the responsibilities of the captain, when he is on leave or away for any protracted length of time.

It will be well for all desk officers to remember the following in dealing with persons arrest on the division. The arraigning of an alleged offender charged with a crime before a police desk is for the purpose of making a police record and not for the purpose of acting judicially in the case, no matter how innocent the accused may be.

Neither the laws nor the rules and regulations of the police department incorporate the members of the force with judicial powers. A desk officer has no right to usurp the powers of the judiciary by discharging persons arrested, no matter what his personal opinion may be of the case. Of course, where a police officer has deliberately arrested a person through spite or desire for revenge, and charges him with some trumped up offence, the desk officer is within his rights in refusing to book him, and will be upheld by the department. On the other hand, where a desk officer refuses to book a "Drunken Driver" just because it means some time lost in court on his part, it is just as much a neglect of duty as refusing to carry out any other duty imposed upon him. Police officers cannot be expected to do proper police duty if their superiors will not uphold them, simply because it means a day in court or the person arrested is a friend of theirs.

The idea of assigning patrolmen to particular routes is to cover the whole city with policemen. It is the policy of police administration never to leave a post or route uncovered unless, under extraordinary circumstances, it becomes necessary. Exceptions are left to the particular necessities of the man on the route or post for a police purpose. In the absence or shortage of the required number of patrolmen, the officer in charge must take measures to have their routes or posts covered during their absence, either by doubling up or dividing their routes.

In assigning patrolmen to routes or posts, the captain should take into consideration, the mental and physical characteristics of each man, his temperament, deportment, habits, cleanliness, reliability, and vices before he makes a final disposition of his men. Generally speaking, it is the best policy to keep a man on the same route for an indefinite length of time, provided he is doing his duty and getting results. It stands to reason, he will have a better knowledge of the criminals who live on his route, its inhabitants, business places, streets and numbers, persons and places that may be the object of a police search, hangouts for criminals, and in short, everything that goes to make up the efficient officer. On the other hand, police officers who are too long on a route get too well acquainted with certain persons on their route and are apt to get careless about police matters, take a quiet drink, etc., which results in a breaking down of his efficiency.

The following are some principles for all superior officers to learn and obey for the betterment of themselves and the men under them.

PRINCIPLES FOR SUPERIOR OFFICERS

(1) The best grip any superior officer can have on a patrolman is on his pride. Therefore do everything possible to build up the patolman's pride in himself and his record. Constantly appeal to him to keep a clean and honorable record.

(2) Treat the patrolman as a man, look him squarely in the eye when you talk to him, and treat him justly.

(3) Never do anything to lessen the respect of the patrolman for himself. Never complain of a young officer if it is possible to avoid it. Many young officers get started wrong by being sent before a trial board when the whole affair could be settled in the captain's office.

(4) As far as possible, use your own method of punishment. Men respect a superior officer who is able to handle his men without having to use outside means for discipline. To be able to run your division yourself is a great asset; be careful not to lose it.

(5) Give short talks to the men on subjects which they ought to know. Be sure these talks are short. Have something to say, say it, then stop.

(6) Teach those under you to have a proper respect for the uniform. Allowing them to get drunk while in uniform, or to wear it in a low dive, except on police business, brings discredit on the individual and the whole department.

(7) Be extremely careful about your manner in dealing with those under you. They are entitled to a respectful and patient hearing. Some superiors seem to act on the theory that police efficiency consists of a loud voice and an impatient manner.

(8) Don't attempt to gain cheap popularity by unofficer-like acts. Police officers are not slow to size up a superior. They soon learn to discern whether his interest is real or feigned. They respect and admire the superior who requires a strict performance of duty. The true rule for the handling of policemen is, don't nag them, don't neglect them, and don't coddle them.

(9) Put the responsibility for the men on the street squarely upon the shoulders of the sergeants. Make them look after every detail on instruction, dress, neatness, equipment, and general appearance and behavior.

(10) The superior who wants to succeed must be loyal to those above him. He is on solid ground then, to expect loyalty from those under him.

(11) It is the duty of a superior officer to prove his title and worth by exhibiting superior knowledge. No organization will long respect a superior officer who has not the knowledge necessary to properly instruct his men.

(12) Justice and promptness are the foundation of good discipline and police efficiency. It takes a level headed man to maintain discipline and yet have every man feel he has had a square deal.

FINALLY. If there is something to be done, the efficient superior sets to work earnestly and loyally to do it, overcoming obstacles as he goes along. The inefficient superior either does nothing or spends his time in discussing difficulties, or in suggesting some other plan more to his liking.

Chapter Forty-Three

EXAMINATIONS FOR PROMOTION

Every intelligent police officer should be ambitious for promotion and as the route to advancement is through competitive examinations, they should prepare themselves by starting their studying in sufficient time before such examination. No one can expect to pass an examination with a high mark if he waits until the examination is announced before commencing his studies.

The police officer who is seeking promotion must be careful of reputation and record in the department, solicitous as to personal cleanliness and appearance, and especially keen in handling police matters in an efficient manner.

Leadership is required of all superior officers, so he should make a special study of administration, such as handling of unusual conditions, large fires, accidents, parades, meetings, riots, and mobs, disciplinary actions, department records, and reports.

When taking a competitive examination, police officers could be divided into three classes.

1. THE PRACTICAL MAN. This is the real policeman, the man who, when something happens, always handles it perfectly, and no doubt, if he were seen in action on his route, he would get 100% for his methods.

Sit this fellow down with paper and pencil to write out how he would handle similar cases, however, and he falls away off - he would get about 50% for his answer.

2. THE THEORETICAL MAN. Here is the man who can write perfect answers to all questions relating to how he would handle different conditions, but place him on the street to handle similar conditions in reality, and he would not get 50% for his efforts.

3. THE POLICEMAN WHO HAS BOTH QUALIFICATIONS - THEORETICAL & PRACTICAL. This is the fellow who can handle the situation in reality or in an examination.

The police department wants this type of man, and believes he should be prepared for promotion. That is, we want him to know how to put his knowledge on paper.

Policemen always have alibis for their failure to get high marks in examinations. The real reasons are as follows:

(1) THEY DO NOT UNDERSTAND THE QUESTION.
(2) THEY GET MIXED UP ON THE SUBJECT.
(3) THEY FAIL TO PUT DOWN ALL THEY DO KNOW.

Offhand, we might say that more men fail because of the first two reasons than the last, but this is not so. We know from experience that more men fail because of the third reason - they fail to put on paper all they do know about the matter in question.

WHAT TO STUDY

The only way to understand a subject or question is to study and apply yourself systematically and faithfully in studying proper subjects. The General Laws, City Ordinances, By-Laws, Police Rules and Regulations, and some good authority on Criminal Law should be gone over thoroughly; and the essential parts noted and studied by all who aspire to promotion.

There are so many different subjects and phases in police work, that no one can hope to be a success in his studying unless he devotes at least two hours a day to such study. He must make up a routine in his studies, taking up one subject at a time, and if possible, take a weekly test in each subject. He must stick to this schedule and let nothing interfere with it if he wants success.

A good way to study is to write your subject. You will discover points in writing it, that were never visible while reading it, and also, you will not fall asleep while writing, which is often the case when reading it.

TOO MUCH HURRY and TOO MUCH CARELESSNESS are usually the reasons why a subject or a question is not understood.

Five minutes spent in reading and digesting a question so as to thoroughly understand it is five minutes well spent and means better ratings.

No matter how much you write, if it is not answering the question asked, you are getting nowhere and your results are nil. Be sure you understand what the question asks before commencing to write your answer.

QUESTIONS ARE EASILY MISUNDERSTOOD because in many cases, they are difficult to understand. OFTEN, THIS IS THE RESULT OF CARELESSNESS. You read it once, think you have the answer, and jot it down without a second thought, and let it go at that. YOU SHOULD READ IT AGAIN AND AGAIN, if you want to be positive what is being asked. Example: A question is asked, "You are a sergeant in the market district, pedlars congregate there, buying their daily supply of goods, what steps would you take to keep the streets clean?"

Most candidates will answer this question by giving all the laws relating to peddling, occupying the streets, and keeping pedlars moving. The question really asks 'how to keep the streets clean'. The pedlars have a right to be there while on business buying their supplies, and in addition to keeping the streets clean, we want the pedlars to do their buying too.

Most questions asked state a condition or conditions. Do not try to change these conditions or make some of your own. Confine your answer to conditions as stated, making sure to cover each and every condition asked in the question.

Where an opinion is asked in the question, such as "What are the qualifications of a good superior officer", you must make a foundation or framework for your answer. You might start off with his mental qualifications, then his physical endowments, and finish with his temperament and deportment. In this manner, you make out a good answer and the examiner feels that you know your subject. On the hand, if you start off with his mental qualifications and suddenly change over to his deportment or physical qualities, and then back to his mental qualifications, you are getting nowhere. In such a case, you might say more than the fellow who makes a systematic answer, but your answer is all jumbled up, and your rating is correspondingly low.

When answering a question calling for, "What advice would you give to patrolmen under you to eliminate certain complaints, and what action would you take to see that your orders were carried out?", never say, "I would take proper police action." This really means nothing in answering a question. State everything you would do and in its proper sequence. In regard to seeing that your orders are carried out, be sure to see that it is being done. Visit the men frequently to see that your orders are attended to. If not, make charges against the patrolmen.

FAILING TO PUT DOWN ON PAPER ALL WE KNOW is the big reason for our not getting higher marks in examinations. Most police officers have about the same knowledge of the laws and ordinances, rules and regulations as the next fellow, but how surprising it is when we see the difference in the manner of putting it on paper. Some men put down important facts without any regard for details. When they see how low their marks are and are told the reason therefor, they are surprised and apt to say, "Why, anyone can see I knew that - can't they understand it?." You never get credit for what you know or understand, but just what you put down on paper.

IN ANSWERING QUESTIONS IN AN EXAMINATION

(1) READ THE QUESTION CAREFULLY - ANALYSE IT. DON'T BE TOO ANXIOUS.

(2) KEEP COOL. DIVIDE YOUR TIME, SO MUCH FOR EACH QUESTION.

(3) BE SURE YOU UNDERSTAND THE MEANING OF IT BEFORE ATTEMPTING TO ANSWER IT.

(4) IF THE QUESTION ASKS, "GIVE REASONS", BE SURE AND GIVE REASONS FOR ANSWERING AS YOU DID.

(5) DON'T MISS A QUESTION AND BE SURE YOU ANSWER ALL SUB-DIVISIONS OF IT.

(6) LEAVE A LINE OR TWO AFTER EACH ANSWER SO YOU MAY HAVE SPACE TO ADD SOMETHING YOU FORGOT, IF YOU HAVE TIME.

(7) TRY TO GIVE THE EXAMINER A CLUE AS TO WHAT YOU ARE TRYING TO SAY.

(8) ADMINISTRATION QUESTIONS CALL FOR EVERYTHING ACCORDING TO LAW, RULES AND REGULATIONS, POLICE PRACTICE AND PROCEDURE, AND THE USE OF COMMON SENSE.

(9) GIVE EVERY PART OF THE LAW AND ALL THE RULES RELATIVE TO ANY SUBJECT IN ANSWERING QUESTIONS.

(10) TRY TO FINISH IN TIME TO HAVE AT LEAST FIFTEEN MINUTES TO REVIEW ALL YOUR ANSWERS.

FINALLY, remember you do not get credit for what you know. You must put your knowledge down on the paper. You may not put down all you know, but you certainly cannot put down what you do not know. So it is essential to know, and second to put that knowledge on paper.

In studying Criminal Law, it is not necessary to be able to repeat all the Ifs and Ands. WHAT YOU WANT ARE THE PRINCIPAL ELEMENTS THAT GO TO MAKE UP A CRIME. Take robbery for instance, you must have four distinct elements:

(1) The unlawful taking of personal property.
(2) From the person or presence of another.
(3) Against his will.
(4) By force or violence or putting into fear.

If a man practiced dividing up the principal crimes in this manner, he would become thoroughly familiar with them and would avoid getting them mixed, such as "Robbery" with "Larceny from the Person" or "Extortion", or "Burglary" with "Larceny in a Building".

In studying Rules and Regulations, there are no short cuts. The book is so constructed that you have to know it as it is. Satisfactory results are not obtained by memorizing a rule parrot fashion. You have to understand it, separate it, find out into how many parts it can be divided. Take, for instance, the rule relative to smoking. There are three distinctive parts to it:

(1) You must not smoke while on patrol.
(2) You must not smoke while in public in uniform.
(3) You must not smoke in the station except in the guard room.

In answering a question on this rule, if you mix up these three parts you will get a low rating. If you keep them separate and apart, you will get a high rating.

You must remember that THERE IS MORE THAN ONE RULE ON SOME SUBJECTS and you must know them all. You can do this by referring to the index where all the rules relative to any one subject are to be found.

In studying ordinances, it is good practice to memorize so many provisions for each.

In answering questions on LAWS or ORDINANCES stick to the laws or ordinances. Do not drift into RULES AND REGULATIONS.

In answering a question on Rules and Regulations, stick to that subject and do not drift into laws or ordinances.

In answering administration questions there is no limit. You can go where you please and the more ideas you can present, the better. IDEAS ARE WHAT COUNT. Always remember that there is no element or idea on any subject so important that it will not bear repeating - none so trifling that you can afford to omit it.

Questions on ADMINISTRATION are usually taken from current events, existing conditions; therefore, previous to an examination for promotion, it is well to be kept posted on current events relative to police administration. You will find public opinion on such matters on the editorial page of the daily papers, also in magazine articles relative to police affairs. You should cut these out and keep them among your study papers.

REPORT WRITING

In preparing for a competitive examination, the average police officer devotes most of his time to the study of the General Laws, City Ordinances, Rules and Regulations, definitions, and questions asked at former examinations.

This is excellent practice, but the wise officer will also spend some of his time and study on that much neglected subject, "REPORT WRITING". As competition today is very keen, a good marking on this subject is not only a good thing towards increasing his percentage, but it is a necessity because of the close marking between the different competitors.

A good report or letter consists of six parts, namely: (in the order given)

(1) Heading (4) Body
(2) Address (5) Conclusion
(3) Salutation (6) Signature

The HEADING states when and where the letter was written and should be about 1-1/2 inches from the top of the sheet and so written as to leave a margin of 1/2 inch on the right. The heading should occupy two or three lines as needed.

Example . . . . State House,
Boston, Mass.,
July 1, 1937.

- - - - -

The ADDRESS is written below the heading and leaving a margin of about 1-1/2 inches from the left of the paper. It consists of the name of the person or persons to whom the letter is sent on the first line, the street and number on the next, and the city or town and state on the third. The address should always consist of at least three lines.

Massachusetts Civil Service Commission, (Example)
Room 101, State House,
Boston, Mass.

- - - - -

The SALUTATION is the greeting of courtesy which introduces the body of the letter and should ordinarily consist of the word, "Sir" or "Gentlemen" written on the next line below the address, beginning at the left hand margin, and followed by a Colon (:).

Massachusetts Civil Service Commission, (Example)
Room 101, State House,
Boston, Mass.

Gentlemen:

- - - - -

The fourth part of the letter is the BODY, which should begin on the next line below the salutation, and directly below the mark of punctuation which follows the letter, as follows:

State House,
Boston, Mass.,
July 1, 1937.

Massachusetts Civil Service Commission,
Room 101, State House,
Boston, Mass.

Gentlemen:
The body of the letter starts directly under the Colon.

In composing the body of the letter one should try to use a number of words not much greater than the number required on the examination paper. The competitor is judged by the quality of what he writes, rather than the quantity. Remember the more you write, the more chance you are taking to make mistakes. However, you should write enough to show that you know your subject.

At an examination you are generally given the choice of two subjects, and it is natural and wise to select the subject that you are most familiar with to write upon. These subjects are generally taken from current events and topics of interest to the police in general.

Having selected your subject upon which to write, the next thing to do is to think the matter over carefully. It is good practice to spend ten minutes of the available time in getting ready, before a word is written on paper.

Prepare in your mind, an outline or plan of the subject, arranging a series of topics into which the question is naturally divided. This helps in determining the beginnings of paragraphs. The following might be a plan of your letter on the subject, "What are the qualifications of a good police officer?"

(1) An introductory paragraph stating what you are writing about, and at least three qualifications; such as Honesty, Sobriety, and Observation.
(2) A paragraph stating why he should be honest.
(3) A paragraph stating why he should be sober.
(4) A paragraph stating why he should be observant.
(5) A concluding paragraph stating how an officer, having all three of these qualifications will make the ideal officer.

Remember that your first paragraph commences under the colon after the word "Sir" or "Gentlemen", and every other paragraph is indented just the same.

Commence the first word in every sentence with a capital. Capitalize the names of:

Countries
Persons
Places
Boards
Commissions
Theatres
Banks
Religious Sects
Political and civil and military organizations
Holidays
Days of the week and months
Historical events
Streets
Halls

and other objects designated by proper names.

Do not use abbreviations, especially in the body of the letter.

(1) Use a period after every declarative or imperative

sentence, after initials, after abbreviations. Example: The warrants are ready to be served. Mr. E. B. Worthy.

Use commas to separate clauses in a long sentence. Example: The summonses will be delivered tomorrow, and the case will be ready for Friday.

(2) To separate words, phrases, or clauses arranged in a series. Example: The ties, shirts, socks, and collars that were stolen, will be held for evidence.

(3) To separate an expression thrown in for explanation. Example: Your last letter, although mailed on the 18th, did not reach us until the 25th.

(4) To separate the members of a series of adjectives or adverbs that are equal in value and not connected by conjunctions. Example: We want a careful, intelligent, conscientious investigation of the case.

(5) To separate from the rest of the sentence, any connective that breaks the train of thought, especially the adverbs, however, too, perhaps, nevertheless, indeed, and then.

- - - - -

As a rule, we use a semicolon to indicate a little longer pause than the comma, but not so long as that indicated by the period.

(1) Use a semicolon between clauses of a compound sentence joined by one of the conjunctive adverbs: so, therefore, hence, however, nevertheless, accordingly, besides, also, thus, then, and otherwise. Example: The condition of the leather market has not changed; accordingly there is no reduction in prices.

(2) To separate clauses that are too long and complex, and that themselves contain commas, we may use the semicolon because the employment of a comma would not make clear the meaning. Example: We find that your order was received on the 6th; that on the 10th, for reasons unknown to us, you returned the goods to us; and that on the 12th you closed your account.

(3) To separate the clauses of a compound sentence when the conjunction is omitted. Example: They did not accept our offer; they bought of Jones and Brown.

- - - - -

(1) The colon is used generally to indicate that something is to follow, as a list or a quotation. Example: These blotters may be had in the following colors: blue, tan, green, and white. Mr. Cummings said in his letter: "This book is the most brilliant one I've ever read on police work."

(2) A colon precedes the expressions: that is, namely, and the abbreviations: viz, i.e., e.g., when they introduce a series of terms used in explanation of the general term. Example: You will be interested in our new officers: namely, Jones, Kelly, and Williams.

(3) Always use the colon after the salutation. Example: Gentlemen:, Sir:.

Use a question mark after every direct question. Example: What is your opinion?

But not after a courteous request, as: Will you please make out a written report.

Remember that in writing, if you use short sentences they will not require much punctuation and you are bound to get them right.

Spelling is another difficult matter for the average officer, and all should drill themselves in those words liable to be misspelled especially those used in everyday police matters. However, if in writing, you are about to use a word that you are in doubt as to its spelling, DON'T WRITE IT, use some other word having the same meaning, that you know you can spell.

The CONCLUSION of a letter varies considerably, but usually consists of such expressions as "Yours truly", or "Yours respectfully," written on the line below the body of the letter, and near the right of the paper. Do not use the old hackneyed phrase"Respectfully submitted," it is out of date unless you are making a report to your captain.

The SIGNATURE follows below the conclusions and at the extreme right of the paper, allowing for the margin. Remember Civil Service examinations, as a rule, have John Doe as the signature. Do not make the serious error of signing your own name unless it is expressly asked for.

The following pages show examples of the proper methods of heading, addressing, salutations, conclusion, etc., of the average Civil Service letter.

- - - - -

93 Forest Street,
Dudley, Mass.,
July 1, 1937.

The Easter Granite Co.,
19 Broad Street,
Boston, Mass.

Gentlemen:

Very truly yours,

- - - - -

Boston, Mass.
June 23, 1937.

Mr. John M. Jones, Treasurer,
Union Institute for Savings,
Albany, New York.

My dear Mr. Jones: (or Dear Sir:)

Very respectfully yours,

154 Berkeley Street,
Boston, Mass.,
July 5, 1937.

Hon. Joseph F. Timilty,
Police Commissioner,
Boston, Mass.

Sir: (or Dear Sir:)

Very respectfully yours,

- - - - -

Police Headquarters,
154 Berkeley Street,
Boston, Mass.,
July 6, 1937.

His Excellency, Joseph F. Hurley,
Governor of Massachusetts,
State House, Boston, Mass.

Your Excellency:

Very respectfully yours,

- - - - -

State House,
Boston, Mass.,
April 18, 1937.

Frank Callahan, Esq.
Commissioner of Public Works,
City Hall, Boston, Mass.

Dear Sir:

In reply to your letter of recent date, etc.

Yours truly,

Patrolman, Division #2.

- - - - -

Police Division #15,
Boston, Mass.,
July 2, 1937.

Hon. Frederick Mansfield,
Mayor,
City Hall,
Boston, Mass.

Your Honor:

A citizen would use "Dear Sir," but as the police are under the control of the Mayor, in some things "Your Honor" is probably better.

Very respectfully yours,

Sergeant of Police.

Another form:

His Honor, Frederick Mansfield,
Mayor of Boston,
City Hall,
Boston, Mass.

Dear Sir: (or if strictly formal)

Sir:

- - - - - -

State House,
Boston, Mass.,
June 23, 1937.

Mr. Thomas Green,
Commissioner of Civil Service,
State House,
Boston, Mass.

Dear Sir:

Very respectfully yours,

AMNESIA: A state of mind resulting in forgetfulness, or loss of memory.

APHASIA: A total or partial loss of understanding or speech.

DELUSION: A false belief, a misconception of facts.

HYSTERIA: A nervous mental condition in which there is no apparent mental or nervous disease.

EPILEPSY: A nervous condition characterized by paroxysms, or spasms of the muscular system. Commonly called a "fit".

ALCOHOLISM: Acute intoxication caused by alcohol.

SYNCOPE: Fainting or swooning.

APOPLEXY: A sudden diminution or loss of consciousness, sensation, and voluntary action, caused by blood or serum flowing into the brain or spinal cord by a rupture of some blood vessel. Commonly called a "stroke".

SHOCK: A result from an injury wherein the activities of the body are greatly depressed. There is more or less shock in all injuries.

ASPHYXIA: Suffocation due to drowning, hanging, lack of oxygen, or breathing poisonous gases.

INCISE WOUNDS: Wounds made by any sharp cutting instrument. For example: knife, broken glass, etc.

LACERATED WOUNDS: Injuries caused by blunt instruments, machinery, and the like.

PUNCTURED WOUNDS: Wounds caused by penetrating instruments, such as needles, bullets, wire, nail, etc.

PSYCHIATRIC TERMS

PHYSIOLOGY: The natural science or philosophy, the science of life.

PHYSICS: That branch of science dealing with the material world.

PSYCHOLOGY: The science of the mind; systematic knowledge and investigation of the genesis, powers and functions of the mind.

PSYCHIATRY: The treatment and study of mental disease.

PSYCHIATRIST: One who treats mental diseases, an alienist.

PSYCHOPATH: A person mentally abnormal other than by mental disease, epilepsy, or alcohol. It means "just born that way".

PSYCHISIS: A name for any mental disease.

SEXUAL INVERSION: A reversal of the nature sex instinct. A boy wants to be a girl, or a girl wants to be a boy.

SEXUAL PERVERSION: Resorting to abnormal practices in sexual intercourse, or gratification of sexual desires in an abnormal manner.

HYPERSEXUAL: Too active or overdeveloped sexually.

HYPOSEXUAL: Underactive or too little developed sexually.

HOMOSEXUAL: One who has a morbid sexual passion for persons of the same sex.

SATYRIASIS: An irresistible and almost insatiable venereal appetite in the male.

NYMPHOMANIA: A morbid and uncontrollable sexual desire in women.

MASOCHISM: Sexual perversion with enjoyment of being cruelly treated. Horsewhipped, etc.

SADISM: Sexual perversion in which lust is associated with inflicting cruelty and violence.

MORBID PROPENSITY: An inclination or disposition to do an unlawful or unnatural act, whether or not it is resistible or irresistible, by an individual who has ability to understand his legal duty.

KLEPTOMANIAC: One who is inflicted with an insane propensity to steal; a form of insanity which manifests itself in an irresistible impulse to steal.

PYROMANIAC: One who has an insane disposition to burn without any particular motive.

ATAVISM: The recurrence in a descendant of the characteristics of a remote ancester; reversion to a more primitive type than that of his immediate or near relatives or ancestor.

PHYSIOGNOMY: The art of discovering the predominant temper and other moral characteristics from the outward appearance, especially of the face.

INSANITY: Derangement of the mind or intellect; lunacy, madness.

IDIOT: A mentally defective person having a mental age of not more than three years.

IMBECILE: Feeble minded; A mentally defective person having a mental age of not over seven years and not under three years.

MORON: A high grade mental defective having the mental age of a child between seven and twelve years.

HAEMATOMA, HEMATOMA: A circumscribed swelling or tumor due to effusion of blood beneath the skin (a black eye, for instance).

QUESTIONS AND ANSWERS

FROM PREVIOUS EXAMINATIONS

NOTE: These answers are not claimed to be 100 per cent perfect. However, I honestly believe that if anyone answers these questions as answered here, he will be bound to get a very creditable mark. Rest assured that every question as answered here has been carefully gone into, and if the author were taking an examination he would answer them as he has in this section. On the other hand, if you differ with the writer, do not be afraid to stick to your decision; we all can make mistakes.

QUESTIONS AND ANSWERS

1.

Q. What is an arrest?

A. The taking or apprehending of a person by authority of the law. It is the seizing of a person and detaining him in the custody of the law. Bouvier.

2.

Q. What are the requisites of a lawful arrest?

A. To constitute a lawful arrest, it is necessary that the arresting officer have lawful authority, exercise that authority in a lawful place, at a lawful time, in a lawful manner, and the person arrested not being exempt from arrest. Voorhees. Page 59.

3.

Q. When is an arrest complete?

A. When the person arrested is deprived of his liberty. To complete the arrest, the officer must announce his office, his intention to arrest, the charge, and take the person into custody either by placing his hands on him with the intention to arrest, or by the arrested party submitting to the words of the arrest, he knowing he is being arrested.

4.

Q. (a) Where can a Boston Police Officer make an arrest? (b) What information must a police officer give a person about to be arrested?

A. (a) Anywhere within the limits of the City of Boston, or in any part of the state when authorized, or in serving a warrant. (b) He must make known his official character, his intention to arrest, the true grounds on which the arrest is made. Note: Show the warrant or tell him the charge without warrant.

5.

Q. (a) What force can an officer use in making an arrest? (b) What assistance can an officer command in making an arrest?

A. (a) He may use any force reasonably necessary to overcome the resistance offered by the accused to effect the arrest. (b) He can command the aid of any person present in the name of the Commonwealth to aid him in the arrest.

6.

Q. When can an officer use weapons in making an arrest?.

A. Only in extreme cases where life or safety is endangered and it is impossible to effect the arrest without their use. If the offence is a felonious one, shooting may be justified, if there is no other means of effecting the arrest. In a serious felonious case, where the felon is escaping, upon refusal to stop when ordered by a police officer, shooting would be justifiable. In any arrest where the officer is in danger of death or serious injury, he can use his revolver or club or any other weapon to prevent such injury. It seems in a misdemeanor where the arrested party has escaped or is attempting to make his escape, there is no authority to shoot him unless the officer is in danger of death or serious bodily injury.

7.

Q. What should the officer do after an arrest?

A. After booking him at the police station, he must take his prisoner as soon as possible before a proper court if such court is in session, and make a complaint against him. If it is not in session, he must be brought before the court at its next session. If the arrest is on a warrant, he must make a proper return. If the arrest is for larceny, he should secure the stolen property and add a schedule thereof to the warrant. Be vigilant in obtaining any other evidence or witnesses that may help his case in court. Prepare his case for court, have his evidence and witnesses ready for the trial. Make a report of the disposition of the case to the desk.

8.

Q. Can a magistrate or a justice of the peace order you to arrest any person, where you have not seen the offense committed?

A. Yes. Under their authority as conservators of the peace, they have power to order the arrest of any person who commits a breach of the peace, riot, or affray in their presence. 220 - 3.

9.

Q. Who is exempt from arrest?

A. Foreign ambassadors, their attaches and servants, or as is stated in the U.S. Constitution, the persons of any public minister of any foreign state, or prince authorized or received by the President, or any member or domestic of his official family. Hawley, Law of Arrest.

10.

Q. Can a police officer arrest for any crime committed in or on a Federal building, post office, military, or naval reservation, etc.?

A. The U.S. authorities have first jurisdiction of these places; but if a serious crime was committed in the officer's presence, it would be his duty to act as in a similar matter in any other part of the city. However, the Federal authorities would prosecute the case and it would be tried in the Federal courts, the police officers being merely witnesses. We have concurrent jurisdiction over these places in the service of criminal process. Chapter 1, section 7.

11.

Q. When can a Boston Police Officer arrest a person who has "jumped" his bail?

A. When a default warrant has been issued and he has the warrant in his possession or knows of its existence. Where no default warrant has been issued there is no authority for him to arrest unless he is given "power of attorney" in writing by the person who went bail, and he has the bail-bond or an exemplified copy of it in his possession.

12.

Q. (a) Is a private detective authorized to make arrests? (b) If you state he can make an arrest, state what he shall do with his prisoner?

A. (a) A private detective has no more authority to make an arrest than a private citizen. If a felonious offence or a misdemeanor amounting to a breach of the peace was committed in his presence, he might as a citizen arrest him and hold him for the police. If he was licensed as a Special Officer, he would have the same authority as a police officer for the particular premises or vicinity he was licensed for. (b) If he arrests as a private detective, no one will receive his prisoner unless it is a felonious or an offence for which any citizen could make the arrest, and in such case, the police will handle the case. If he was a licensed Special Officer, he could have his prisoner booked and taken care of by the police of his division, in the city or town as the case may be, where he is licensed, and in this case, he will handle his own case in court.

13.

Q. Name three purposes for which your local courts may issue a search warrant which may be served by persons other than police officers, and state the official designation of the persons who may serve them.

A. The Director or Supervisor of Fish and Game, or Game wardens and their deputies for fish or game unlawfully received or kept. 129 - 13. The head of a Fire Department or an inspector of the Department of Public Safety may serve search warrants for explosives, bombs, etc., illegally kept when directed to them. 148 - 50. Special officers appointed for the Society for Prevention of Cruelty to Animals may serve search warrants for birds or animals kept in any place for the purpose of fighting. 272 - 88.

14.

Q. You hear A and B arguing and hear A threaten B - if he does not give him $10 he will set fire to his store. You believe unless he gets the money, A intends to do it, but not immediately. What would be your course of action? Give reasons.

A. A is threatening B with an injury to his property if he does not pay $10. This is a felonious offence, and I would arrest him without a warrant. Charge him with "Attempting to extort money by maliciously threatening to burn B's store". 265 - 25. This has gone beyond mere threats to injure, it is an attempt to extort money. However, the courts may take a more lenient view of the matter and direct him to put it under 275 - 2-3-4, and in this case, he may be bound over to keep the peace or fined up to $100 or imprisoned for not over 6 months.

15.

Q. A demands from B a diamond ring which he is wearing, but B refuses to give it up. A then tries to take the ring by force from B's finger. B, however, offers A $20 on the condition he will not take the ring. A agrees and B then gives him the money. (a) Of what crime or crimes is A guilty? (b) Of what crime or crimes is B guilty?

A. (a) A is guilty of robbery. Reasons: A attempted to take the ring by force from B's finger, but B, having fear of losing the ring, voluntarily gave him the money. He would not have given the money if he did not fear the forcible loss of his ring. This makes the taking of the money by force, and he is guilty of robbery. (b) B is guilty of no crime. Reason: B gave the money under fear of harm to himself. Nothing criminal in this.

16.

Q. What is the difference between an admission and a confession?

A. A confession is a voluntary statement made by a person charged with a crime to another, without fear, promise of reward or favor, that he is guilty of the crime charged.

An admission is a voluntary or involuntary statement or action on the part of a person accused of a crime, which shows consciousness of guilt, or from which guilt may be inferred.

A confession is a direct acknowledgment of guilt.

An admission does not admit guilt, but by his statements or action guilt may be inferred.

A confession must be voluntary, without fear or inducements of any kind. An admission can be voluntary or involuntary provided it is not obtained by duress. In a confession the defendant has a right to demand a hearing as to the admissibility of the confession. On admission this right does not exist, outside of the ordinary rules of evidence.

17.

Q. (a) A, who owns a building, arranges combustibles with a pan of turpentine, with intent to have B burn the building. A offers B $100 to set the fire, B refuses. What crime, if any, has A committed? (b) A, as above, offers B $100. B accepts the money, starts out to set the fire, but on his way changes his mind, and does not do it. What crime has A committed? What crime has B committed?

A. (a) A is guilty of "attempt to burn a building" and also "soliciting to commit a crime". Both misdemeanors. 266 - 5 A.

(b) A is guilty of "attempt to burn a building". A and B are both guilty of conspiracy. Both agreed to burn a building and even though B changed his mind, they are both guilty. Conspiracy is a separate offence, as the attempt in this case is a misdemeanor.

18.

Q. (a) What is "blasphemy"? (b) What is meant by "animus furandi"? (c) What is an "affray"?

A. (a) Blaspheming the holy name of God by denying, cursing, or contumeliously reproaching God, his creation, government, or final judging of the world, or by cursing or contumeliously reproaching Jesus or the Holy Ghost, or by cursing or contumeliously reproaching or exposing to contempt or ridicule the Holy Word of God as contained in the scriptures. 272 - 36. M. (b) Animus furandi means "with intent to steal". (c) The fighting of two or more persons in a public place to the terror of the people.

19.

Q. (a) What is meant by "autre fois convict"? (b) (b) What is meant by "autre fois acquit"? (c) What is meant by "nolo Contendre"?

A. (a) In a plea of former jeopardy it means that he has been convicted of the same crime before. (b) In a plea of former jeopardy it means that he has been acquitted of the same crime before. (c) A plea in a criminal case (not capital) whereby the defendant tacitly admits his guilt by throwing himself upon the mercy of the court. It is an implied admission of guilt. The court is not bound to accept it.

20.

Q. For what purposes is the distinction between a felony and a misdemeanor important other than for the purpose of punishment?

A. All felonies are "mala in se" that is, bad in themselves, while misdemeanors, with a few exceptions are simply "mala prohibita" that is, prohibited by statutes. All felonious offences require an intent to do the act committed, while in misdemeanors, except breaches of the peace, intent is not a necessary element in making the offence. The law takes the view that felonious cases are so serious that an immediate arrest is necessary, while in misdemeanors, except breaches of the peace and a few others where special permission is given to arrest by law, a summons to court is usually used. You can arrest for a felony at any time within the statutes of limitations, but where an arrest is necessary for a misdemeanor it must be on view, with a few exceptions. The law gives greater latitude in breaking doors to effect an arrest in a felonious case than in that of a misdemeanor. You can arrest on a reasonable suspicion of a felony, which is not so in a misdemeanor. A court record for a felony is admissible for a longer period than for a misdemeanor and in granting licenses or permits, a previous conviction of a felony would be, in many cases, enough to refuse such license.

21.

Q. A man has in his possession a revolver which he believes to be loaded, and he states that he intends to kill B. He approaches and points the revolver within one foot of B's head and pulls the trigger. It develops that the revolver was not loaded. (a) What crime would you charge A with? (b) If in the above case the revolver was loaded with blank ammunition?

A. (a) Assault with a revolver (dangerous weapon) with intent to kill. (b) Assault with a revolver (dangerous weapon) with intent to kill. 9 Mass. 274: 110 Mass 407.

22.

Q. Name some articles that could be seized in a dwelling house on a search warrant.

A. Alcoholic beverages unlawfully kept and exposed for sale; gaming implements or apparatus used in unlawful gaming; narcotic drugs unlawfully kept; stolen property; counterfeit coins, notes, etc.; obscene literature, prints, etc.; bombs and explosives illegally kept; unreasonable number of rifles, shot guns, pistols, etc., kept for an unlawful purpose; birds, dogs, etc., kept for fighting; lottery tickets; certain prostitutes in houses of ill fame; and medicines, drugs, instruments, and other articles intended to prevent conception.

23.

Q. As a Chief of Police, what should be your conduct toward the men in your department, and what would you expect their conduct to be toward you and toward their work?

A. I would be courteous and considerate with my men, but firm and persistent in the proper execution of all orders issued by me; and in the observance of the rules and regulations of the department. I would expect cooperation from my men by using and treating them in the same manner as I would expect to be treated myself in their position. From them I would expect obedience, civility, and respect. In their work I would expect proper attention to it in all its details and full enforcement of the law in every case. This would be brought about by my own example and a spirit of cooperation which I would insist upon at all times.

24.

Q. What persons cannot lawfully be licensed to carry a pistol, revolver, or machine gun?

A. An unnaturalized person; a person who has been convicted of a felony or of unlawful use or sale of narcotic drugs; or a minor other than one 15 years or over in the employ of a bank, public utility corporation, or business of a similar nature, whose application is endorsed by his employer. 140 - 130.

25.

Q. You discover a fire escape obstructed in an apartment house. You order the tenant who has access to the fire escape to remove the articles of obstruction. He refuses to remove them on the grounds that he did not place them there, and that they were there before he moved into the apartment. What would you do?

A. If, after twenty minutes have elapsed, he refuses to remove such articles, I would apply to the courts for a warrant to seize such articles and complain of him in court for permitting such articles to remain on a fire escape. The articles seized on the warrant would be disposed of in a like manner as those seized on a gaming warrant. 143 - 22.

26.

Q. On the day of a large celebration a woman steps up to a police officer, informs him she has just been robbed of $250 by two men who are just passing, and whom she points out. She demands that he arrest them. As the officer approaches the men, one man hurries away and is immediately lost in the crowd. The other one tells the officer a plausible story, whereupon the officer decides to make no arrest. Comment in detail upon the officer's conduct in this case.

A. If the woman was in her right mind and not the wife of the man, and her accusation sounded reasonable, the officer did wrong in not arresting the man, especially so if the woman was ready to go the station or court to make an accusation against him there.

If the woman was the wife of the man, or the man's story was such that would cause a reasonable doubt as to his guilt, the officer would be justified in not arresting the man. Such a case might be insanity on the part of the woman, deliberate intent to do him an injury, or where the man was of such character and standing in the community as to create a doubt as to such a charge. However, the officer should at least have taken the name of the man and made a report of the occurence, and gotten the name of the other man also.

A police officer is not compelled to make an arrest, even in a felonious case, without a warrant unless he has reasonable grounds to believe that the person to be arrested has committed the crime charged. If the officer acted in good faith and had a reasonable cause to believe the man not guilty of the crime, I would do nothing in the case. But if he was, in my opinion, shielding a criminal or too lazy to go to court with the case, or in any other way lax, I would report him to my commanding officer for censure or trial.

27.

Q. Who may order a police officer to arrest a person for disorderly conduct and later order the release of such person without bringing him before the court?

A. The presiding officer at a primary or election, but such person shall not be prevented from voting. 54 - 74.

28.

Q. A felon escapes from the custody of an officer and disappears from view in the heart of the city about 10.30 A.M. You learn of it shortly after. What steps would you take and what agencies would you put in operation to prevent his getting out of the city?

A. I would immediately telephone the facts of the case and his description to headquarters and any other facts that might help to quickly locate him, so that all radio cars, divisions and surrounding towns may be notified. I would have all officers notified, as they telephoned in for instructions or at roll call, of the escape and description of the felon. I would take steps to cover all railroad depots, the vicinity of the escape, and roads leading out of the city, or any other avenue of escape, with a view to capturing him before he got out of the city. I would cause all underworld dens to be visited and other sources of information attended to with a view to his location. Enter all facts in the journal.

29.

Q. What statement should a police officer make to a person under arrest in order that the arrested man's statement made to the officer may be competent evidence?

A. The officer should notify him that he is a police officer, that he is about to question him, that he (the defendant) does not have to answer any questions put to him if he does not want to, but that if he does answer such questions or make any statement, it will be used against him in evidence. All the answers or any statement he may make must be made voluntarily, without fear and without any promise of reward or favor.

30.

Q. While in command of the station, an officer brings before you a boy charged with a crime of murder. After you question the boy, you learn that he is 16 years and 3 months old. State how you would book the boy, and what other steps you would take in this up to the time the boy is brought before the court.

A. I would book the boy for murder; he having committed a crime punishable by death or imprisonment for life, he is, therefore, not a delinquent child in the meaning of the law. I would notify his parents or guardian and the probation officer of his arrest. If the probation officer makes a written request for the boy to be turned over to him, I would do so unless the arresting officer makes a written request for him to be held. He could be released to the boy's parents if the arresting officer were willing and there were extenuating circumstances in the case, provided the parents made a written promise to have the boy in court on the day specified. This case is beyond the jurisdiction of the Juvenile Court, but he would have to be brought there first for an examination, and if probable cause were found, he would be held for the Grand Jury. See chapter 119, sections 66 - 69.

31.

Q. Explain the action the police should take in each of the following cases? (a) A contractor is found violating the ordinance against excavating in a public street. (b) A contractor is found violating the ordinance against obstructing the street and gutter with building material.

A. (a) I would get the name and address of the contractor; find out if he had a permit to make the opening in the street. If he had no permit I would order him to stop further work until he had received the necessary permit. If he had a permit, I would find out the space he was allowed to occupy, and if he was using more than his permit called for, I would call his attention to the fact and request him to rectify it, and to make the street safe by guards, lights, etc. (b) I would get the name and address of the contractor and ask to see his permit if he had one. If he had no permit, I would order him to immediately remove said obstruction and material. If he had a permit and was using more than his permit called for, I would request him to confine himself to the space allowed in the permit. In both cases, I would collect the permit if issued, make a report to my commanding officer along with the permits, and set forth the particular violation of the law or terms of the permit. This would be forwarded to the Commissioner of Public Works for his consideration for prosecution.

In both cases if the contractor failed to make the street safe for public travel, I would do so myself by removing the obstruction and placing guards, or lights, as needed. Rule 50 - section 5.

32.

Q. A intentionally administers poison to B in Springfield, Mass., from which poison B died in Boston 6 months later. (a) What crime, if any, did A commit? (b) If A committed a crime, where may he be tried for the crime?

A. (a) Murder, provided he knew it was poison. 277 - 60. (b) He could be tried in Boston or Springfield, in the courts for either county.

33.

Q. When is it a crime to keep open a shop, warehouse, or workhouse, or do any manner of labor, business, or work on the Lord's Day?

A. When such business, labor, or work is not a work of necessity or charity, or done without a permit from the Chief of Police of a city or town, or, in Boston, the Police Commissioner or a designated officer of rank not less than captain. 136 - 9.

34.

Q. A police officer, while on duty, comes upon William Brown, for whom he knows a warrant has been issued for assault with intent to kill. The officer has not the warrant in his possession at the time. When he attempts to arrest Brown, the man demands to see the warrant. The officer ignores the request, whereupon Brown resists arrest. The officer finally clubs Brown into submission. At the station house the officer charges Brown with (a) Assaulting a police officer, (b) Resisting arrest. Is the officer justified in making these charges? Give reasons for your answer.

A. (a) No. (b) No. An officer who makes an arrest must give the true reason for the arrest. If he had the warrant in his possession he must show it to him. In this case, not having the warrant in his possession, he should have told him he would show it to him at the station. Where he ignores Brown's request, Brown had a right to resist and the officer is liable for any undue use of force. Of course, this is a felonious offense and a police officer could arrest without a warrant, but even then he must give the true grounds for the arrest.

35.

Q. Mary Brown has been living with her sister Clara. They quarrel and Mary decides to take up a residence in another part of the city. Her sister refuses to give up her property. Mary comes to the station for an officer to recover her property. What would be your procedure?

A. I would send an officer with Mary to investigate the case. I would instruct the officer, as this is a family matter, to try to reconcile the parties first, since probably no crime has been committed, and it is a civil matter anyway. If it were a civil matter, I would have the officer instruct Mary to apply to the courts for a writ of replevin if the goods were valued at more than $20, or a suit for conversion if under $20. If Clara insists on holding the property and the evidence shows she took the property well knowing she had no right to it and she intends to keep it, have the officer bring Mary to court to be the complainant for a warrant for larceny against Clara.

36.

Q. What is the law relative to the sale of cocaine and what is the penalty for a violation of the same?

A. Any manufacturer or jobber of drugs, wholesale druggist, registered pharmacist actively engaged in business as such, and any physician, dentist, or veterinarian registered under the laws of the state where he resides, and having a registry number assigned to him by the Federal Government, may sell cocaine or other narcotics to the above-named persons or any incorporated hospital, college, or scientific institution on the written order of the superintendent or officer in charge of such institution, or upon the written order duly signed by any manufacturer or jobber of drugs, wholesale druggist, registered pharmacist, or physician, dentist, or veterinarian, registered as above. 94 - 201.

Any person who has in his possession cocaine or other narcotic drug with intent to unlawfully sell, deliver, or exchange such drug, or whoever sells such drug or furnishes, gives away, delivers, or exchanges such drug - 5 years in State Prison, or not less than 2-1/2 years in jail or house of correction. 94 - 212.

37.

Q. A police officer arrests a man without a warrant for an offense which requires a warrant in order to make the arrest legal. The prisoner, knowing his rights, resists the arrest. The police officer calls upon a citizen, in the name of the Commonwealth, to assist him in making the arrest. The citizen does assist the officer. Is the citizen liable for false arrest for assisting in a false arrest? Give reasons for your answer.

A. No. There is no liability against the citizen for assisting the officer when called upon in the name of the Commonwealth to make an arrest, except for the use of excessive force; provided, he acts in good faith and does not cause the arrest himself. 263 - 3.

38.

Q. A is arrested and lodged in your station house on a default warrant. Under what circumstances could you release A on a request of a duly qualified bail-commissioner?

A. A person arrested on a default warrant cannot be bailed upon the request of a duly qualified bail-commissioner, unless it is upon the order of a justice of the court where such charge was pending at the time of the default.

39.

Q. A, a Hebrew, observes Saturday as the Sabbath and remains closed all day Saturday. He opens his tailor shop on Sunday and is working behind closed doors. Has he committed any crime? (b) A Hebrew has his store open on Sunday and is selling fruit. Is this a violation of the law?

A. (a) No, provided he does not disturb others by noises. 136 - 6. (b) Yes, unless he is licensed so to do by the licensing Board. Not if the day is Rosh Hashonah up till 12M.

40.

Q. What information is a Chief of Police required by law to give to other police chiefs?

A. Upon application they shall furnish to each other and to probation officers, records, and statements and all information in their possession relative to persons whose cases are under investigation for drunkenness. G.L. 272 - 50.

41.

Q. In searching a prisoner in a station house before he is put in a cell, what articles or personal property may be taken from him lawfully by the officers making the search?

A. Any article which may be used in evidence against him. Any article with which he may do injury to himself or others, such as drugs, weapons, knives, sharp instruments, neckties, and belts, etc. It is police practice to take money and valuables for safe keeping, but these must be returned to the prisoner upon his release or upon leaving the station. The searching officer is responsible for a thorough search of the prisoner.

42.

Q. It is reported to you that John Smith, a duly licensed dealer in paints and oils, doing business in your city, has sold a gallon of wood alcohol to John Jones, who is 18 years old. You are asked to prosecute John Smith for making such sale. Would you prosecute him? If so, what offense would you charge him with?

A. It is no offense to sell wood alcohol to a minor 16 years or over; provided the dealer was licensed by the Health Commissioner to sell methyl alcohol (wood alcohol) so called. But he must make a reasonable inquiry to determine that such alcohol is not to be used for beverage purposes. If it is sold in a container, it must bear a label of white paper on which is printed in red capital letters "DEADLY POISON", the name and place of business of the vendor, "NOT FOR INTERNAL USE, CAUSES BLINDNESS, KEEP FROM THE EYES". 94 - 303 B - 303 C - 303 D.

43.

Q. When, if at all, may a person operating a motor vehicle along a highway be arrested without a warrant for a violation of the "motor laws" so called?

A. An officer may arrest without a warrant any person operating a motor vehicle on any way, who does not have in his possession a license to operate motor vehicles granted him by the registrar, and who violates any statute, by-law, ordinance, or regulation relating to the operation or control of motor vehicles. An investigator or examiner appointed by the registrar may arrest without a warrant any person operating a motor vehicle while under the influence of intoxicating liquors, whether or not he has a license. Chapter 90, section 21. By a decision of the Supreme Court police officers are justified in arresting without a warrant persons operating an auto while under the influence of intoxicating liquor. Com. vs. Gorman, Nov. 2, 1935.

44.

Q. What would be your proceeding in the following cases? (a) A man comes to the station saying he is ill and unable to go any farther. A surgeon is in the station at the time and he says that the man is a victim of small pox. (b) An officer brings in two boys at 9.30 P.M. whom he charges with the throwing of barrels into a baker's cellar. (c) John Smith, a patrolman, comes into the station from a route nearby saying he has the cramps.

A. (a) I would segregate such person for the time being, which the surgeon would probably order me to do. I would immediately get in touch with the Health Commissioner and notify him of the case and be governed by his instructions as to what hospital he would order him sent to. I would give him any information relative to patient's address, name, occupation, and where he works, and the persons who might have been exposed to contagion from him. I would keep all persons away from the place of his confinement and place myself and any other officer under the orders of the Health Commissioner in regard to being exposed to contagion. Enter all the facts of the case in the journal.

(b) I would turn the children over to their parents with a warning. No offense has been committed unless the barrels were the property of another, and they destroyed them maliciously or destroyed other property by throwing them into the cellar. I would tell the officer it would be better for him to call the attention of the children's parents to the matter rather than to arrest them.

(c) I would have Smith remain in the guard room for a short time if I believed it was just an ordinary case of cramps. If I was satisfied that there was something serious the matter with him, I would send him home in one of the police conveyances. If it was necessary to call medical attention at once, I would call a doctor to attend him, and especially so if he seemed to be faking or was under the influence of liquor, and was using this as an excuse to shirk his duty. In all these cases, I would take immediate pains to have his route covered during his absence and make a full report on the journal of the whole affair.

45.

Q. A foreman of a cellar gang,where an explosion occurs and several persons are injured and a large amount of property damaged, is brought to the station. What would be your procedure?

A. Notify Headquarters if necessary, and send men and ambulances immediately to the scene of the disaster to take care of the injured persons and the damaged property. I would inquire of the foreman or arresting officer the cause of the explosion. If it were caused by an explosive, the storing or using of which required a license or permit and there was no permit or license issued for such explosive and the foreman was using it, I would book him, cause the explosive to be seized, and also arrest the contractor or other person who had possession or control of the explosive. I would notify the State Fire Marshal of the explosion and such seizure, and turn the explosive over to him, if the guilty parties were convicted. If the explosion were an accident or not, I would determine whether or not to prosecute the foreman, contractor, or any other negligent person, in case the injuries resulted in a death, for manslaughter. I would cause a report to be made of every person injured, property destroyed, time, and place of the accident, names of the owner, contractor, and other matters of importance to be recorded in the journal, and the necessary reports to the superintendent to be made out. I would cause the guilty parties to be prosecuted. The superintendent would notify the Department of Public Utilities if it were a gas explosion, the Department of Public Works (Building Dept.) if a building under construction, and the Health Department if the accident were caused by gas.

46.

Q. What would you do if, as lieutenant in charge of a station at night, the following matters came up?

(a) A citizen telephones at 10.30 P.M. to say that a man living in the next house to his is smashing furniture and making a violent noise.

(b) A woman comes in at 9.00 P.M. and states that her four-year-old boy has been missing since early morning.

(c) An officer telephones in that a van has just drawn up in front of a residence, the occupants of which are away on vacation, and that goods are being removed from the house to the van.

A. (a) I would immediately send an officer to this house with instructions to investigate and if the man was drunk and creating a disturbance, to arrest him. If he was insane and dangerous to himself or others, to bring him to the station, and I would have him sent to the Psychopathic Hospital for observation and commitment. If he was disturbing the peace and refused to stop, and the neighborhood was visibly disturbed by his actions, I would tell the officer to arrest him without a warrant for disturbing the peace, and have the neighbors as witnesses against him. I would enter all facts in the journal.

(b) I would get a complete description of the boy. Immediately get in touch with Headquarters to find out if any boy answering this description was at any station awaiting a claimant, and if not, to send out an alarm for him. I would cause the officers on my own division to be notified at roll call or by signal boxes. I would question the woman as to whether or not she had made inquiries among her neighbors for her child, whether or not she were married or divorced, and if there was any possibility of her husband stealing the child. Have officers visit all beaches, parks, or other places where a child might wander. Enter all the facts in the journal and morning report.

(c) Send the officer back immediately to find out whether or not any member of the family was present; who was doing the moving; if they had a wagon license to move furniture. If they in any way acted suspicious, to arrest on suspicion of "burglary". I would then take measures to make sure whether or not they were acting upon orders of the owners of the house in moving the furniture. If they were all right, I would release them provided they signed the necessary waiver. If they were not acting legitimately, I would book them for "breaking and entering a dwelling in the day or night, as the case may be, and larceny of the goods in the van". I would warn the officer that it is no crime to move furniture in the day or night, unless they were not licensed and were being paid to move it. Enter all facts in the journal.

47.

Q. Under the rules governing the Boston Police Department, a captain or division commander is obliged to make what are called "daily", "monthly", "semi-annual", and "special" reports. State briefly what each of these reports should disclose.

A. Daily. Morning reports of all arrests and all matters of importance occurring on the division during the preceding 24 hours, ending at 8.00 A.M.

Monthly. Absentees; accidents in streets, parks, or squares; classified arrests for preceding month; paid details; physician's services; schedule of money turned in to Chief Clerk; and Lower Court warrants unserved.

Semi-Annual. Property report (April and October).

Special. Arrests for violation of the liquor law liquor seizures, gambling raids, house of ill fame prosecutions, condition of horses, sick investigations, motor vehicles stolen and recovered, etc., inspection of station houses, supervision of dancing in cafes and hotels, officers assaulted; also such special reports as may be called for from time to time. Reports of felonies committed on the division shall be immediately forwarded to Headquarters; in emergencies, such reports shall be made first by telephone.

48.

Q. How often is a captain or division commander obliged to visit all parts of his division? In connection with those visits, what matters is he obliged to report, and to whom must this report be made?

A. A division commander shall visit all parts of his division as often as once a week. He shall report to the superintendent all cases of contagious disease, and any negligence which may expose the city to danger by fire, and all matters which require the attention of city departments. He shall note the condition of the streets, sidewalks, street lights, obstructions, nuisances, and non-compliances with city ordinances, and all other matters requiring the attention of the police.

49.

Q. What is the duty imposed on a captain or division commander when a person not a member of the police department applies at the station house for the purpose of making a complaint against a police officer?

A. He shall take the complaint in writing and enter it in the journal. Should the complaint be of such a character that neither the captain nordivision commander can dispose of it properly within the authority conferred upon him by the rules or should the complainant so request, the division commander shall within 24 hours report the complaint in writing to the superintendent.

50.

Q. As captain of police you have in your force an officer who for the first time has in his possession rendition papers. He is about to start for Chicago, Illinois, to bring back to your city a prisoner who is being held for him. What advice and instructions would you give him?

A. I would look over his papers to see that he had the necessary papers in duplicate, if he had not been to the Governor's office, or single copies if he had already been there. I would then tell him that he must go to Springfield,, Illinois, the State Capitol, and present his papers to the Governor of Illinois. If the papers were regular and in proper form, the Governor would issue his warrant ordering the delivery of the person named and name the officer as the agent to receive him. The officer would then go to Chicago with the Governor's warrant, and see the Chicago police who would (arrest if he were bailed) bring the accused before the proper court, and he would then be turned over to the officer. However, if the prisoner desires to apply for a "writ of habeas corpus" the officer must grant him an opportunity to so apply. If he obtained such writ, it would be necessary for the officer to prove the following facts, (or if he fought the extradition, before the Governor) -

1. That you are the person named in the requisition papers authorized by the Governor of Massachusetts to bring back the accused. 2. That an offense has been committed in Massachusetts and that an affidavit has been made naming the accused as the one who committed the crime. 3. That the accused was in Massachusetts at the time the crime was committed. If after doing this, the Governor or court refused to grant the request, there was nothing else for him to do but come home without his man. If extradition was granted, the prisoner would then be turned over to him and he should return to Boston with his man. After his arrival, in Boston, he should go immediately to the Superior Court, if in session (otherwise to the Charles St. Jail) and deliver his prisoner to the court officer cr keeper of the jail. He must then make a return on his warrant and deliver it to the clerk of the court, and also make a return on the Governor's warrant and return it to the State House. Make a report of your expense account.

51.

Q. A man, because of his religious scruples, refuses to summon medical aid for his sick child and the child dies. Of what crime, if any, is the man guilty?

A. At common law he is guilty of "manslaughter", but under present conditions in Massachusetts, where there is no law requiring a person to furnish medical aid to his child and under our Constitution, which gives a person the right to practice his religion as he sees fit, unless it interferes with the rights of others, it would be no crime. Answer - no crime in Massachusetts.

52.

Q. What are the duties and powers of a police officer in regard to a person making outcries on the public street in such a way as to annoy passersby?

A. If he were drunk, I would arrest him for drunkenness. If he were insane, I would have him taken care of as an insane person. If he were a Hawker or Pedlar crying his wares, I would prosecute him under a City Ordinance against such practice. In any other case where warned to desist, and he refuses, I would arrest him for disturbing the peace, and use the persons disturbed as witnesses.

53.

Q. State in detail, the restrictions which are placed by law upon persons licensed to sell and deliver firearms at retail.

A. 1. The licensee shall adhere to the provisions of the nature of the license and the building in which the business is to be carried on.

2. Before delivery of a firearm, he shall make or cause to be made, a true entry in a sales record book kept for

that purpose, specifying its description, make, number; single or double barrel; magazine, revolver; pin, rim, or central fire; whether sold, rented, or leased; the date and the hour of such delivery; and before said delivery shall cause the purchaser, rentor, or lessee to personally write his name, address, and occupation in said book.

3. License must be displayed conspicuously upon the premises.

4. He must, once a week, send a copy of the record of sales to the licensing authorities and commissioner of public safety, of sales for the preceding week.

5. No firearm which requires a license to carry is allowed to be displayed in the outer windows or any other place where it may be seen from the outside.

6. Every firearm shall be securely wrapped up, fastened and unloaded when delivered.

7. No delivery of a pistol or revolver to be made on the day of purchase, except to a person holding a license to carry same.

8. No pistol or revolver shall be sold to a person unless he has a permit in force to buy them. Permit is not good after ten days from the date of issue. Machine gun not to be sold unless the person has a license to possess same.

9. Permit to purchase must be taken up by the licensee, who shall endorse the same with the time and place of sale and forthwith transmit it to the Commissioner of Public Safety.

10. The license is subject to forfeiture as provided in section 125 for a breach of any of its conditions. License expires January 1.

54.

Q. A and B live in Boston. They agree to fight a duel with revolvers in Providence, R. I. They fight the duel, as agreed, and A is mortally wounded and later dies in a hospital in New Bedford. Of what crime is B guilty and where may be he be tried? Give reasons.

A. B is guilty of murder by duelling. He may be tried in New Bedford. In Massachusetts, if a mortal wound is given outside the state or upon the high seas from which a person dies in Massachusetts, the perpetrator can be tried in the county where the death occurs.

55.

Q. What are three necessary things, proof of which must be made in court in order to convict a man of an attempt to commit a crime?

(b) What persons cannot be convicted of being an accessory after the fact to a felony?

(c) When is a person charged with the commission of crime placed in jeopardy?

A. (a) 1. That he intended to commit the crime. 2. That he did some proximate act toward the commission of the felony. 3. That he did actually fail to consummate the crime intended.

(b) Husband or wife, or by consanguinity, affinity, or adoption, parent or grand-parent, child or grand-child, brother or sister, of the principle felon or accessory before the fact are exempt. 274 - 4.

(c) When he is placed on trial: 1. Upon a valid indictment or complaint. 2. Before a court of competent jurisdiction. 3. After he has been arraigned and pleaded. 4. When a competent jury has been impanelled and sworn to try the case and render a verdict, or a court having jurisdiction has begun to try the case.

56.

Q. Name all the courts in Boston to which the police department presents cases for trial.

A. Suffolk County Superior Court; Boston Municipal Court; Boston Juvenile Court; Charlestown Municipal Court; South Boston Municipal Court; Dorchester Municipal Court; Roxbury Municipal Court; West Roxbury Municipal Court; Brighton Municipal Court; and the East Boston District Court.

57.

Q. While you are doing duty as desk sergeant, a man is brought into the station house charged with larceny. State item by item what information concerning the prisoner you would enter in the "arrest book".

A. Date at the top of the page; time; officer in charge; arresting officer; prisoner's name, age, nationality, height, weight, complexion, sex; married or single; residence; offense; cell No.; property; searching officer; officer placing in cell; result.

58.

Q. Name six ways in which automobiles play an important part in the commission of crimes of larceny and robbery, and outline briefly the manner in which you would proceed to abolish such use of automobiles in your city.

A. (1) The unguarded manner in which they are left on the streets.

(2) The ease with which they may be operated.

(3) The distance that can be covered before the theft is known or an alarm sent out.

(4) The ready market for stolen cars when offered at reduced prices.

(5) The failure to have private marks placed on the machines.

(6) The difficulty in interesting owners in the prosecution of or inquiry into such thefts, due to their desire to collect insurance.

I would instruct all officers to warn owners of cars not to leave their cars parked unlocked while parking in the streets. Have all laws on parking rigidly enforced. Be especially watchful of cars being operated by young men who do not appear to thoroughly understand the mechanism of the car they are operating. Cars left standing on the streets for hours should be put up in garages by the police. Watch all persons loitering in the vicinity of cars parked on the streets, and if they get in any car, demand to see the operator's license and registration for the car and compare the registration numbers.

59.

Q. Upon entering a hall where a public entertainment is being given, you hear the band playing a medley of which the "Star Spangled Banner" is a part. Outline your procedure in this case.

A. I would order the leader to stop the playing, take his name and address, and the names and addresses of all the players and apply to the court for a summons, charging them with "Playing the Star Spangled Banner" at a public entertainment as a part of a medley, and not as a whole and separate number. 264 - 9.

60.

Q. What is the difference between embezzlement and larceny by a servant?

A. In embezzlement, the property converted must be in the possession of the person converting it, and not in the possession of the owner. In larceny, the culprit just has custody of the property, and the owner the possession.

60a.

Q. Of what felonies can the district court take jurisdiction?

A. All felonies for which a penalty of fine or imprisonment in the jail or house of correction is provided by law. 218 - 26. P.S. Watch for a change in this law.

61.

Q. John Smith is arrested for refusing to support his aged father. Name three conditions which would justify his refusal.

A. (1) If he were under the age of 21 years. (2) Insufficient means to support him. (3) If his father failed to support or provide adequate support for such child during his minority. (4) If his father had sufficient means to support himself. 274 - 20.

62.

Q. Jones, whose automobile was stolen, discovers that it is stored in a certain private garage. The owner of the garage refuses Jones's request that the automobile be delivered to him. About midnight the following night, Jones breaks into the garage; takes the automobile outside onto the street, where he discovers that the automobile is not his car, but belongs to one Smith. He goes no farther with the car. Of what crime or crimes is Jones guilty?

A. Jones is guilty of no crime. He had no criminal intent in taking what he supposed to be his own car, even though he broke and entered to take such car. He is not guilty of a criminal trespass, because no one ordered him off the premises either verbally or by notice posted. He may be guilty of a civil trespass and under such be liable for the damage he did in breaking into the garage in a civil action.

63.

Q. Bronson, a patrolman on street duty, telephones in to you the following information. He has observed a seemingly respectable man pick up a wallet in the street; whereupon he requested the man to open the wallet and count the money in it in his presence. The man refuses to give his name and declines to turn over the money to the officer, though asked to do so. Bronson then asks the man to accompany him to the station house, which the man refuses to do. What instructions would you give Bronson? State your instructions in detail and the reasons therefor.

A. I would instruct Bronson to get a good description of the man, and if possible, to follow him to his home if in the neighborhood. Also try in any manner to learn who he is, but not to arrest him. Any person who finds money (lost) or goods to the value of $3.00 or more, the owner of which is unknown, shall within 2 days report the finding thereof to the officer in charge at a police station in the town where said property is found, or, if there is no police station, shall post notice thereof in two public places therein, or, instead of such report of posting, cause notice thereof to be advertised in a newspaper published therein. G.L. 134 - 1.

If the finder failed to notify the police or advertise as above required, I would cause Bronson to apply for a warrant for his arrest for a violation of this chapter and section. If it could be proven that the finder converted the money or goods to his own use with intent never to return them to the owner within one year after such finding, he would be guilty of larceny thereof. 134 - 1.

64.

Q. What is the provision of the motor vehicle law relative to number plates, licenses, and lights?

A. A car must have two number plates, furnished by the registrar for the current year, conspicuously displayed, one in front and one in the rear. They must be clean and legible. At night the rear number plate must be so lighted up as to be visible at 60 feet.

The operator must be licensed by the registrar; no one under 16 years can receive a license. He must have such license and registration of the car in his possession or in the car when driving such car. He must indorse his name on such license. Said license expires one year from date of issue. He can only operate the kind of motor designated in the license if it is restricted.

Every motor vehicle operated during the period from 1/2 hour after sunset to 1/2 hour before sunrise shall display at least two white lights, or lights of yellow or amber tint, or if parked within the limits of a way, one white light on the side of the automobile nearest the center of the way. Every motor truck, trailer, and commercial vehicle used solely as such, having a carrying capacity of 3 tons or over, in addition, must have a green light attached to the extreme left front of such vehicle to indicate the extreme left front of such vehicle or load. In all cases, the lights must be visible 200 feet. Every motor vehicle must display at least one light on the rear number plate, visible at 60 feet. Lights must be approved by the registrar. 90 - 6-7-8.

65.

Q. (a) What book, which must, by law, be kept by the owner of a public garage, is open to you for inspection? (b) In what manner, if at all, does the inspection of this book aid the police in the recovery of automobiles that are stolen?

A. (a) A book containing a proper record of every motor vehicle which enters and leaves the garage - date, register number, time of entering, time of leaving garage, operator's or chauffeur's name.

(b) This book aids in the recovery of stolen cars, if the officers keep an accurate description of the cars, and visit such garages frequently to inspect their records, examining and comparing the cars stored there with the ones stolen, and notifying the garage keeper to be on the lookout for such cars. Often stolen cars are found in these garages that have been stored there or have casually entered for some purpose. 90 - 32.

66.

Q. While you are in charge of your station house, a military officer in the service of the Commonwealth of Massachusetts brings in a man in the uniform of a private in the military service. The military officer explains to you that the private has been arrested by him for a breach of certain military regulations, and he asks you to place the private in a cell and hold him there until further orders from him, the military officer. What would be your course of action? Give reasons for your answer.

A. I would make sure that officer and private were what the officer claims to be. An officer in the military service has a right to order those under him into arrest. All police stations are lockups and any officer who has the power to arrest can commit the arrested person subject to his orders. I would book him for safe keeping and make note of the fact in the journal.

67.

Q. A man steals and sells a watch. Later you arrest this man and in searching him at the station house, you find upon his person a sum of money which the prisoner says he received from the sale of the watch. You seize the money and use it in evidence in court. The man is found guilty of the larceny of the watch, and is fined a sum of money less than that which you found on his person. The prisoner then requests that you deliver to him his money in your possession, in order to pay the fine. What would be your course of action? Give reasons for your answer.

A. The man is charged with the larceny of the watch and not money. The money in this case is simply circumstantial evidence and not the actual article stolen. Stolen goods must be returned to the rightful owner. The money is not the stolen goods, therefore I am bound to return the money to the man in whose possession it was found. I would return him the money and get a receipt for it.

68.

Q. You enter the Roxbury Municipal Court room at the moment a thief is being sentenced to jail for 6 months. The thief does not appeal from the sentence. You hold a warrant from the Suffolk Superior Court for the arrest of this thief. State what you would do in order to produce this man in said Superior Court for trial.

A. I would send the warrant to the institution to which he is confined, to be served on him upon his release from said institution. I would notify the District Attorney of his sentence by the Roxbury Court, and if he so desired, he could apply for a write of "habeas corpus" to bring him into the Superior Court any time before the expiration of his sentence.

69.

Q. (a) For what offenses may a person be rendered as between states?

(b) For what offenses may a person be extradited as between this and another country?

A. (a) For any indictable offense against the laws of the demanding state, such as treason, felony, or other crime.

(b) For any offense covered by treaty between the United States and the other country, but never for any political offense.

70.

Q. If you were detailed to discover a man known to belong to a certain criminal class for some years and known to be in your city, but who is unknown to you personally, what would be your method of procedure in order to effect his arrest?

A. I would check up on all persons who are criminals of this class by searching the records of the detective bureau, state institution departments, etc., then by a process of elimination, through this information and talks with other inspectors, I would narrow my field of search to a few persons. I would compare the description given of the criminal and his "modus operandi" with that of those under suspicion, and if possible, have some one who could identify the person wanted, look at the pictures of the suspects and pick out the man wanted. I would then learn his habits, associates, his address and where he is likely to be found, and effect his arrest.

71.

Q. John Jones, lawfully married, refused to support and provide his wife with sufficient food and drink for her sustenance and maintenance, by reason thereof she, being unable to provide for herself, became mortally sick and died. Could Jones be convicted of manslaughter or any other offense?

A. He could be convicted of manslaughter if he had sufficient means, and was physically able to support and provide for her, and she was his lawful wife, and he being under a legal obligation to do so. He could also be convicted of "Non-support of his wife". There is criminal negligence in this offense and under these circumstances, he would be guilty of "Manslaughter". 272 - 1, 277.

72.

Q. What articles must be returned to a prisoner who is leaving the station to go to court?

A. All articles and other property taken from him at the time of his arrest except such articles or property as are to be held in evidence against him. If he is still in custody, all articles that could be used by him to cause an injury to himself or another should be held until he is released or discharged from custody.

73.

Q. Suppose that upon entering the premises of John Jones, a licensed lodging house keeper, for the purpose of making an inspection, you find a box containing several sticks of dynamite in the front hall. Jones informs you that it is his property and that he intends to use it for blasting rock. Under what circumstances, if any, would you arrest him? In case you seized the dynamite, to whom, if anybody, would you make a report?

A. If Jones had no license from the Street Commissioner of Boston to store such explosives and a permit from the State Fire Marshal for use such explosive for blasting (he must file a bond with the city clerk), I would arrest him without a warrant and seize the dynamite and send notice of the seizure to the State Fire Marshal.

I would complain of him in court for storing an explosive (dynamite in a building without a permit to do so); keeping a fire menace, etc. After conviction and forfeiture of the dynamite, I would deliver it to the State Fire Marshal. 148 - 13-19-35-36-24.

74.

Q. When and under what circumstances may a desk officer hold a material witness? What is a material witness?

A. A material witness is one who can testify to what he personally knows.

The power to detain or arrest a person as a "material witness" is a problem quite often confronting the desk officer, the proper adjudication of which calls for the exercise of judgment and intelligence in order to promote the ends of justice and at the same time show due regard for the rights of personal liberty. The G.L. provide for a court or magistrate to commit a material witness, but no such power is vested in a police officer. Their power to detain is bound by evidence or suspicion of guilt, and usually upon investigation the police will find evidence enough to hold him as an accessory, or on suspicion of actual guilt in the felonious offense. There is no right for a police officer to arrest or hold a material witness, without a warrant or restraining order from a court or magistrate.

75.

Q. Name the sports or diversions that are prohibited on the Lord's Day under any circumstances.

A. Horse racing, automobile racing, boxing, hunting with firearms, and fishing by hook and line for compensation, or by net or spear. 136 - 17-25-32.

76.

Q. A patrolman brings into the station, while you are on desk duty, a man whom he has arrested without a warrant. This man was throwing rubbish on the street and refused to pick it up when ordered to do so; he also refused to give his name. While being booked, he gives you his name and his identity is made known by a house officer who is present. What would be your procedure in this case?

A. His identity being made known and no warrant having been issued, I would release him and instruct the arresting officer to make application to the court for a process and prosecute him at a later date.

The officer was right in arresting the culprit if he was unknown to him, and he will not suffer any liability for his release, if after arriving at the station, the culprit makes himself known and the desk officer releases him.

77.

Q. A prisoner is brought into the station at 2 A.M. charged with burglary. First, he wants to make a confession; second, he wants you to get a bondsman, saying he will gladly pay for the accodommation. What would you do? Give reasons for your answer.

A. (1) I would warn him that I was a police officer if he did not already understand this; that he did not have to make any statement if he did not want to; that if he did make a statement, this would be used for or against him at his trial; that the confession or statement must be made voluntarily. I would be sure not to hold out any promise of reward, let-up in charges or any other inducements that would invalidate the confession. If he then made the confession, I would take it down in writing and let him read it, and have him sign it, and introduce it in court, if necessary.

(2) I would tell him that I am not allowed to select a bondsman for him, but that I would show him a list of bondsmen and he could select whomever he wished from this list. I would then notify such bondsman to come to the station.

78.

Q. As Chief of Police, how would you advise and instruct new officers of your department in the presentation of cases in court for the first time, and what would you say to them about expecting a conviction for every arrest made?

A. I would instruct them to be punctual in attendance, to wear the uniform and be clean and neat in appearance; to have their cases properly prepared, the witnesses, if any, in court; the evidence suitably arranged for presentation to the court; to observe the utmost attention and respect toward the magistrate; to give their evidence in a clear and distinct manner with the strictest accuracy and truthfulness, whether for or against the prisoner, the same applying when under cross-examination. I would instruct them not to expect a conviction in every case, and not to allow their wishes or any feeling as to the decision to influence them.

79.

Q. As Chief of Police it is reported to you that a certain house in your city is being used for gambling and other forms of vice. Barriers of unusual strength are placed for the purpose of preventing the police from entering. How would you act in this case?

A. I would cause the house to be watched for the purpose of obtaining evidence for a search warrant to enter the house to arrest the persons gaming and seize the gaming implements. I would complain of the persons conducting the game for keeping and maintaining a gaming nuisance. I would order the barriers removed by the owner or agent of the building by giving him a written notice to that effect, and if I could not find said owner or agent, I would post such notice on the outside of said apartment building. If the barriers were not removed after seven days from the date of such order or notice, I would cause the barriers to be removed. The expense of such removal would be a lien on said building and collected in the same manner as a mechanic's lien. 271 - 25.

80.

Q. In establishing a high degree of discipline among the patrolmen, what methods would you use other then sending them before a trial board?

A. Division commanders are not required to bring minor derelictions of duty to the attention of higher authorities, but they must endeavor to prevent their recurrence by admonitions, by withholding privileges, and by such other means as may be necessary to enforce their lawful orders. The way to establish a high order of discipline is to set a personal example. Be on the job steadily; make a study of the territory covered by your division; go around among the patrolmen on their routes and advise them as to efficient methods of patrol; make frequent tours of inspection; keep an eye on the men when off duty to see that they deport themselves properly; encourage them when they do good work; do not be severe in case of minor infractions; be severe where neglect of duty is involved; but insist upon faithful patrol duty, and enforcement of the law above all.

81.

Q. You are notified in the early morning that a woman has been murdered by a burglar. The woman's husband informs you that he and his wife were awakened by the burglar, who, upon being discovered, began to shoot. The husband said he got his revolver and fired at the burglar, and during the exchange of shots, his wife was killed, and the burglar escaped, and nobody else in the house saw the burglar. What would you do and what evidence would you look for to substantiate or to discredit the husband's story?

A. I would look for evidence of the manner of entrance by the burglar; fingerprints on smooth objects; footprints outside the house. I would inquire of other persons in the house and in the vicinity whether or not they heard a number of pistol shots; if any articles were stolen, get a description of same. Look for bullet holes or bullets and compare them with those in husband's revolver; compare the bullet that killed the wife with those in husband's revolver to determine whether or not he killed her; ascertain relations between husband and wife, whether happy together or otherwise; and whether or not he would benefit by her death.

If after such investigation, I decided there had been a break, I would immediately check up on all known burglars operating in my city, watch pawn shops and second hand dealers for the stolen articles, etc. I would apply for a warrant for the burglar's arrest, whether he was known or unknown, for the burglary and murder, if he was the one that fired the fatal shot.

If I was satisfied that there was no burglary and that the husband intentionally shot his wife, I would arrest him for the murder of his wife. If there was a burglary and the husband accidentally shot his wife, he would not be responsible for the death. The burglar in this case, would not be responsible for the death of the wife. 7 Allen Mass. 541; 121 Ky. 97. Clark Page 168.

82.

Q. Name the condition under which a person may be prosecuted criminally for obtaining goods on credit by means of false representation relative to his financial condition.

A. If such pretense is made in writing and signed by the person to be charged, or if by the terms of purchase, payment is to be made on delivery or before such delivery, and he failed to pay for the goods as contracted. 266 - 35.

83.

Q. A woman is brought into your station house in an intoxicated condition. (a) Would you cause this woman to be searched? If so, by whom and in what manner? (b) Under what circumstances, if any, would you make the search yourself?

A. (a) Yes. I would take hat pins, contents of a bag or bundle, etc., that might do an injury to herself or others, but I would not search her person. I would call upon the matron, a policewoman, or other respectable woman to complete the search, or if none of these were available, I would send her to the House of Detention or to a station where there was a matron to finish the search and take care of her.

(b) If an immediate search were necessary, where it was known or suspected that she had some object or substance that could inflict injury upon herself or another, or she had certain evidence of a crime concealed on her person and was liable to destroy it, and there was no matron, policewoman, or other respectable woman present, I would search the woman myself in the presence of a superior officer, and with all due respect to decency. I would then enter the facts in the journal and make a written report of the case to the superintendent, stating why it was necessary for me to make the search. Rule 44 - S 26.

84.

Q. In prosecuting a person for uttering a check on a bank wherein he has an account, but has not sufficient funds or credit there to meet the check, what facts must you prove in court in order to bring about and secure a conviction?

A. I must prove that such person uttered the check, and that he has received notice of insufficient funds at the bank on his account to meet the check, and that he has not within two days after receiving said notice paid the amount of the check, together with all costs and protest fees. This would be prima facie evidence of an intent to defraud.

85.

Q. A police officer in plain clothes arrests M, who demands to know the officer's authority to arrest him, the reason for the arrest, and the officer's warrant. The officer refuses to show his badge or give information of the question put. Is M justified in resisting? Give reasons for your answer.

A. Yes, M is justified in resisting. Chapter 263, section 1: Whoever is arrested by virtue of a process, or whoever is taken into custody by an officer has a right to know the true grounds upon which the arrest is made; and an officer who refuses to answer a question relative to the reason for such arrest, or answers it untruly, or assigns to the person arrested an untrue reason for the arrest, or neglects upon request to show to the person arrested, or to any person acting in his behalf, the precept by virtue of which such arrest is made, shall be fined up to $1000 or imprisonment for the officer not over 1 year.

M would be justified in resisting the arrest to the extent of preventing the arrest, but he would not be justified in killing the officer, especially if he was a known officer.

86.

Q. Name three crimes in the commission of which criminal intent is not a necessary element of the offense.

A. All crimes that are Mala Prohibita (prohibited by statute) and not Mala in Se (crimes in themselves), such as:

Violation of the Traffic Rules.
Violation of the Auto Law.
Unlawfully selling intoxicating liquor.
Selling milk below the standard required by law.
Spitting on the sidewalk.
Selling adulterated foods in violation of the law.

87.

Q. When in a criminal case will the court permit you to show that the defendant has a previous record of conviction? State how you would prove the record of a previous conviction of defendant.

A. (1) If the defendant takes the stand as a witness, in his own behalf, and has testified, I could introduce his criminal record to affect his creditability as a witness. If he does not take the stand and is convicted, I could introduce his previous record for the purpose of affecting his sentence by the court.

If the record were a misdemeanor, I could not introduce such case after five years had elapsed from the date of conviction. If it were for a felony, not after 10 years from the date of conviction, but if he was sentenced to the State Prison, such record could not be introduced if 10 years had elapsed after the date of the expiration of the minimum sentence thereto.

(2) I would secure a certified copy of the record of conviction from the clerk of the court in which he was tried and convicted. If it was the same court where he is now being tried, the clerk, upon notice, would produce the record of previous convictions.

88.

Q. What must a person do before he can obtain a license to conduct a public dance hall? Explain fully.

A. He must make application to the mayor for such license. The mayor will have the police, fire, building, and health departments investigate his character, condition of the building as to construction, safety, health, etc. They then make a report of the building, or the character of the person seeking the license. If the mayor is disposed to grant the license, the applicant shall make such changes in the structural or other conditions of the building as the mayor believes necessary for the safety, health, and other conditions relative to the building, etc., before the license will be granted. 143 - 34.

89.

Q. (a) How would you handle a complaint of boys raiding an orchard?

(b) Destroying trees, fences, and buildings?

(c) Annoying pedestrians in the street?

All of these boys are between the ages of 12 and 18 years.

A. (a) If the injured party wished to prosecute the boys, I would apply to the proper court for a summons for the boys and their parents, and charge them with "delinquency", to wit: larceny of fruit from the orchard of the complainant.

(b) Same procedure as above, but the charge would be "delinquent child", to wit: maliciously and wantonly destroying the property of the complainant.

(c) The same as in (a) "delinquent child", to wit: Accosting and annoying a person of the opposite sex, or disturbing the peace.

In all the above cases, if the child was under 17 he would be charged with delinquency, at the juvenile session of the court. If he was over 17, he would come under the regular court and be subject to the same charge as any other person of full age.

It is to be presumed that I would do all I could to prevent such misdemeanors by warning the boys and their parents and to prevent their being brought into court, but where the complainant insisted, or where they still persisted in their wrong doing, or for any other good reason, I would complain of them in court.

90.

Q. You wish to install a dictaphone in a certain building in your city. What permission are you required to receive? What crime would a person be charged with for any violation of the law regarding the placing of a dictaphone in a building?

A. I would have to receive permission from the Attorney General of the state or the District Attorney for the district in which I wish to install the dictaphone in any building not under my exclusive control.

The complaint would be "Eavesdropping", to wit: installing a dictaphone in building 15 __________ Street without permission from the Attorney General or the District Attorney for the district, with intent to procure information concerning an official matter or to injure another. G.L. 272 - 99, 100,101.

91.

Q. What officers are empowered to serve a writ of "habeas corpus"?

A. Sheriffs and deputy sheriffs.

92.

Q. As Chief of Police, what would be your attitude toward reporters who are assigned for the purpose of obtaining news for their respective papers of the activities of the department?

A. I would treat the reporters with the civility to which all citizens are entitled, and require of them when they are on police premises to observe the regulations which apply to those places. I would assist them in any legitimate inquiry that police interest would permit, but I would give them no information contrary to my own good judgment. In the early stages of some criminal cases, when the interests of the department and persons involved should be kept quiet, I would withhold such information, but if publicity would be harmless, I would let them have such information. Many persons ask for aid of the police on information given voluntarily themselves and do not desire their business to be made public. In such cases, I would not give out such information unless it was manifestly to the interest of the public to do so.

93.

Q. A sergeant is taking his platoon of night men out for duty. What is his duty concerning inspection of the men and their equipment?

A. He shall inspect each man of his platoon separately as soon as they are formed in line preparatory to marching out on patrol, to see that they are fit for duty, understand where they are going, see that they are properly uniformed for the season of the year or inclemency of the weather; see that they have their revolvers and clubs and ammunition therefor; that they have their box keys; that they are shaved and their uniforms pressed and clean; buttons, badge, metallic trimmings, and shoes shined or polished and that they have their pocket manuals.

94.

Q. You are in the depot of your city, when a train arrives from Worcester. A railroad policeman gets off the train with a man whom he claims committed a disturbance and at least one assault and battery on the way from Worcester. He has the man under arrest and turns him over to you. What would be your procedure?

A. I would take charge of the prisoner, the arrest being lawful on the par of the railroad officer; take the name and address of the officer and any witness; make a complaint in the court of jurisdiction in Boston at its next session, making myself the complainant, and stating to the magistrate the facts of the arrest. I would ask for a continuance of the case to such time as I could summon the railroad officer and the witnesses, if any, to appear in court to testify against the prisoner.

95.

Q. Define and illustrate: "Corpus delicti"; "Compounding a felony"; "Duress"; "Prima facie evidence"; and "Return".

A. Corpus delicti is the body or essence of the crime; a substantial fact showing that a crime has actually been committed. In murder, the finding of the dead human body with a bullet wound in the back would be the "corpus delicti".

Compounding a felony is the taking by a person directly injured or damaged by a felony, of any valuable consideration, or any promise thereof, upon an agreement or understanding, expressed or implied, to conceal a felony, or to abstain from any prosecution therefor, or withhold any evidence thereof. A robs B of his money and valuables. B later agrees with A, for a certain sum of money not to prosecute A for the robbery.

Duress is coercion exercised upon a person whereby he is forced to do some act against his will. As, A through fear of bodily harm from B, is compelled to steal certain goods from his employers. A is not guilty of the larceny, because he acted under duress. B would actually be guilty as he forced A to commit the crime.

Prima facie evidence is evidence which raises such a degree of probability in favor of the existence of a particular fact that it stands as proved unless rebutted or disproved. In larceny, the possession of the stolen goods within a reasonable time after the larceny is prima facie evidence that the the possessor stole the goods.

Return is the endorsement made by an officer upon a warrant or other court document, stating that he has done what he was thereby directed to do and the mode or manner in which he did it. As A, an officer, arrests B on a warrant for assault and battery. Before returning the warrant, it is necessary for him to endorse on the back of the warrant just what he did. The date of the arrest, the city or town and county, and the following words, "By virtue of the within precept, I have arrested John Doe and have him in court" and the signature of the officer following.

96.

Q. What is the law relative to the sale of ice at retail from a vehicle?

A. They must keep conspicuously posted on each side of the vehicle the current retail prices of ice sold by them; they must not refuse or neglect to sell the same by weight upon request of the purchaser. 122 - 1926.

97.

Q. When is an attempt to commit a crime a felony?

A. When the crime attempted is punishable by five or more years in the State Prison, except larceny as defined in the G.L. 266 - 30, "or attempt to commit arson" 266 - 5 A.

98.

Q. What dangerous weapons cannot be carried under any circumstances, except when held as evidence?

A. Stiletto, dagger, dirk knife, slung shot, metallic knuckles, and sawed-off shot-guns or infernal machines.

99.

Q. (a) How many persons are required to sign a search warrant for alcoholic beverages. (b) Can a private citizen sign one?

A. (a) Two adult persons. (b) Yes, but he cannot serve the warrant unless it was especially directed to him. 138 - 61.

100.

Q. John Jones, a patrolman, telephones to you, his captain, and says that William Brown, the driver of a U.S. Mail automobile, has just come down the main street at a terrific rate of speed and collided with a Ford Coupe in which were a man and a woman, both of whom were thrown into the street. The man's arm is broken and the woman, who was rendered unconscious, is bleeding from a wound in the head. What directions and instructions would you give the patrolman in order that this case be properly handled?

A. I would immediately send an ambulance and other officers to the scene of the accident to take care of the injured persons, render first aid, etc. I would instruct the officer to place the driver under arrest if he were drunk, otherwise to take his name and address, and number of the mail vehicle, then allow him to proceed with his mail. If, after the arrival of the officers at the hospital, either one of the injured persons died or was pronounced dead, I would cause the arrest of the driver and charge him with "Manslaughter". In any case, I would also have the officer apply for a process for "Driving so as to endanger the lives and safety of the public" and "Reckless Driving". If the driver were drunk, in addition to the drunkenness charge, "Operating while under the influence of intoxicating liquor". I would have him obtain the names and addresses of the witnesses and all the facts of the case and make out a complete report for the journal and records. If an arrest of the driver was necessary before he could return the mail automobile, I would take steps to have the car guarded until I could notify the Postal Authorities to get the car.

101.

Q. Name five common law crimes not covered by statute.

A. 1. Conspiracy. 2. Libel. 3. Assault and battery. 4. Obstructing justice. 5. Obstructing a public highway. 6. Affray. 7. Soliciting to commit a crime.

102.

Q. From what authority must a person have a license to (a) conduct a lodging house, (b) operate an automobile, (c) conduct a moving picture, (d) sell newspapers.

A. (a) Private lodging house, LICENSING BOARD; public lodging house, POLICE COMMISSIONER. (b) Registrar of Motor Vehicles. (c) The mayor. (d) The mayor and City Council (boys) 16 to 21 years, (girls) 18 to 21 years. School Committee (boys) 12 to 16 years, girls under 18 cannot engage in street trading.

103.

Q. (a) Name five crimes against the person for the commission of which the maximum penalty is life imprisonment in the State Prison.

(b) Name four crimes against the property for the commission of which the maximum penalty is life imprisonment in the State Prison.

A. (a) Murder in the second degree; robbery while armed; robbery; rape; poisoning food, medicine, spring, etc., with intent to injure or kill another; assault with intent to rape.

(b) Burglary being armed, and making an assault; larceny of paper designed for bank bills, with intend to injure or defraud by passing or uttering; printing or having in possession after printing such bills with intent to pass; fraud or embezzlement by an employee of the State Treasury.

104.

Q. John Brown finances a robbery. He hires A and B to commit the crime in Boston. After the robbery is completed, Brown receives one-third of the proceeds of the crime. What charge or charges can be preferred against Brown?

A. He is guilty of an accessory before the fact to the robbery; he is also guilty of receiving stolen goods. As accessory before the fact he would be liable to the same punishment as the principal felon.

105.

Q. What are the powers of "special officers" and how far does their jurisdiction extend?

A. They shall have the same powers as police officers and constables, except in the service of civil process, to preserve order and enforce the laws and ordinances in and about the premises specified in their licenses, while their licenses are in force.

106.

Q. On an inspection tour of your city at night, you step into a public dance hall, where the persons in control are charging a certain sum for admission fee, and you find a masked ball in progress. Outline your procedure and reasons for your answer.

A. I would inform the person promoting the masked ball that he was violating the law, and I would take his name and address, the names and addresses of all concerned in the promoting, aiding, or setting up of such ball, and at the next session of court apply for a summons for these violators. This is against Chapter 140 - 185.

107.

Q. By whom may a person who is wilfully and without right pulling down or removing any portion of a stone wall or fence which is erected for the purpose of enclosing land, be arrested without a warrant?

A. The director of the division of fisheries and game of the department of conservation, fish and game wardens, and deputy fish and game wardens. Chapter 266 - 105.

108.

Q. State the maximum age only of the minors involved in prosecutions in each of the following cases: (a) Delinquent child; (b) Wayward child; (c) Neglected child; (d) Stubborn child; (e) Abandonment of infant child; (f) Non-support of minor child.

A. (a) Between 7 and 17; (b) between 7 and 17; (c) under 16 years; (d) under 21; (e) under 10 years; (f) under 16 years; if by his mother, 21 years if by father.

109.

Q. Under what conditions would you permit intoxicating liquor to be brought into or kept in the station house?

A. When seized as a result of a lawful raid; when ordered by a physician; when taken from a prisoner being searched; or when held as evidence.

110.

Q. If a certain restaurant, the proprietor of which was licensed as a common victualler, was located in your city and the proprietor maintained stalls closed by curtains, what investigations would you make or cause to be made, and under what circumstances, if any, would you prosecute the proprietor?

A. I would ascertain from the Licensing Board whether or not these stalls and curtains were approved by them for this restaurant. If not, I would cause the proprietor to be prosecuted if the curtains were so hung so as to prevent persons within the stalls from being plainly seen by others in the cafe.

111.

Q. An officer procures an unlawful sale of intoxicating liquor from a woman in her apartment. The woman resists the efforts of the police officer to arrest her. The officer leaves the prisoner and within a few minutes returns with another officer, both of them then arrest the woman. (a) Was the arrest legal? (b) Give reasons for your answer.

A. (a) Yes. (b) The officer made the arrest, but on account of the resistance offered, he was obliged to call for assistance, which he had a legal right to do, and no unnecessary time was wasted in getting help. If, when the officer obtained the sale, he made no arrest and then left the premises to get help, and returned afterwards with help, the arrest would be unlawful, because the offense being a past misdemeanor in this case, would require a warrant for the arrest.

112.

Q. A committee of reputable citizens calls on you and asks for detailed information as to the conditions under which they may lawfully conduct a public entertainment on the Lord's Day and charge admission fees. State in detail the information you would give this committee.

A. I would advise them that they would have to make a written application to the mayor for a license, describing the character of the entertainment; that if the mayor granted such license, the entertainment must be in keeping with the character of the day and not inconsistent with its due observance; that it could not take effect before 1.00 P.M.; that the fee would be $2, and that the entertainment would have to be approved in writing by the commissioner of public safety.

113.

Q. A, whose license to operate a motor vehicle has been revoked and not restored, takes B's automobile without his authority and operates it on the highway. Is this a misdemeanor or a felony?

A. Felony. Penalty not more than 10 years. S.P. 266 - 28.

114.

Q. A man steals a motor vehicle in Chicopee, Mass., and takes it to Rhode Island and sells it. What crime other than larceny could he be convicted of?

A. He could be convicted of "transporting a motor vehicle in violation of the Interstate Commerce Act". This is a Federal violation and would be prosecuted in the Federal Court.

115.

Q. What would be complete justification for an officer who has made an unlawful arrest?

A. He would never be justified if he had wilfully and maliciously made a false arrest. But, he can justify a false arrest by proving the following: 1. That he is an officer of the law. 2. That he had a legal process with him, or knew that it had been issued and in full force and effect. 3. That he followed the directions of the process or statute under which he made the arrest. 4. That the process was issued by a court having legal power to issue such process; that it was regular on its face, and that there was nothing on its face to advise him that it was issued without legal authority. 5. On the order of a justice of the peace, although the justice does not act in good faith nor on reasonable belief in the defendant's guilt. 6. If he arrests without a warrant, that he acted in good faith and had reasonable cause to believe the defendant guilty, in a case where he is called upon to act and he makes a mistake of fact and comes to a wrong conclusion, if the law permits such arrest without a warrant. 7. In arrests for suspicion of a felony that the defendant voluntarily signed a waiver releasing the officer of all claims. 8. Where the officer did not order or direct the arrest himself, but assists after being called upon by some other officer in an arrest, or is ordered to make the arrest by a superior officer, provided he uses no unnecessary force in making the arrest. 263 - 3.

116.

Q. State under what circumstances a summons is issued. (b) State under what circumstances a warrant is issued.

A. A summons may be issued upon a complaint punishable by a fine only or by imprisonment for not more than 1 year, with or without fine, if, in the judgment of the court or judge receiving the complaint, there is reason to believe that the defendant will appear on a summons. (Auto Law - 2 yrs.)

A summons shall first be issued in case of a complaint against a child for delinquency under the age of 14 years, also against corporations.

(b) A warrant is issued, except in cases as stated above, upon complaint made to any justice that a crime has been committed; the complaint shall be made on oath and reduced to writing, and subscribed to by the complainant, if it appears to the justice that a crime has been committed.

117.

Q. In passing a show window of a second hand shop, shot guns, rifles, metallic knuckles, mechanic tools, and slung shots are displayed. Are there any articles displayed in violation of the law?

A. Yes. Metallic knuckles and slung shot.

118.

Q. Name at least five reasons why it is good police practice for a detective sergeant to make and keep an accurate memorandum of all facts relating to every case to which he is assigned.

A. (1) Because it is a part of his duty to keep such a record of all important police matters coming to his notice.

(2) Because of the large number of cases he investigates, making arrests and prosecuting the same.

(3) Because he then has the names of the witnesses, addresses, and a statement of what they know about the case.

(4) Because it would be impossible for him to recall all facts of each case unless he had a memorandum of it.

(5) Because an accurate memorandum of all facts recorded at the time obtained would enable him to refresh his memory therefrom at any time thereafter.

(6) Because when testifying on the witness stand, from his memorandum he can testify truthfully and honestly, and his memorandum is admissible in evidence, if it was made at the time of the case.

119.

Q. As compared with a street sergeant who is assigned to a particular route in your city, what special qualifications should be possessed by a detective sergeant whose duties take him all over the city?

A. The ordinary street sergeant is concerned generally in those conditions that apply to his division alone, the supervision of his men on the street, and the outward display of the police that is required of the uniformed members of the force.

The detective sergeant is generally a specialist in some particular line of police work and is more concerned in the secret workings of the police and works in civilian clothes. As such, he should have the following qulaifications: A keen power of observation; ability to practice deception; ability to gain and hold confidences; resourcefulness; persistence, and tireless capacity for work; a suspicious nature; an acquaintance with the kind of business, as well as with persons who are employed, who live in, or who frequent the sections to which he is assigned, and a general knowledge of all criminals whose "modus operandi" is his particular line; ability to question and get information; and knowing by sight persons who are likely to be the object of a police search.

120.

Q. When may the confession of a defendant be used against him?

A. When it is voluntarily given by the defendant and not inspired by fear, duress, or promise of a reward or favor.

121.

Q. A man in Boston is found printing tickets for a lottery which is conducted in Manchester, N.H. When you question this printer, he tells you that he prints about 2000 of these tickets every week and delivers them to a man who calls every Friday and pays for the tickets. Upon investigation, you find the printer's statement is true. State whether the printer has committed a crime. If the printer has committed a crime, state the name thereof and whether it is a felony or a misdemeanor.

A. Yes. Whoever aids, either by printing or writing or is in any way concerned in setting up, promoting, managing or drawing a lottery for money, set up, promoted, managed, or drawn out of this Commonwealth, shall be punished by a fine of not more than $2000, or by imprisonment for not more than 1 year. This offense is a misdemeanor. Aiding by printing, in setting up and promoting a foreign lottery out of this Commonwealth. 271 - 15.

122.

Q. Under what conditions, if any, is a person justified in resisting an arrest by a police officer?

A. 1. He may resist an unlawful arrest and his friends may help him:

2. If the officer uses any unnecessary violence or force in making the arrest, he would be justified in resisting even though the arrest were legal.

3. If the officer gives the person arrested a false reason or an insufficient reason for the arrest, even though the real cause was a legal one, he would be justified in resisting.

4. If an officer unlawfully attempts to enter premises to accomplish an illegal arrest or to seize property illegally, he may be resisted.

123.

Q. A police officer arrests John Jones, who escapes. The officer having good reason to believe that Jones had taken refuge in the house of Clark, breaks open the door of Clark's house in order to arrest Jones, whom he then finds had not taken refuge there at all. Is the officer liable?

A. If Jones was arrested on a warrant, the officer would be justified, as a warrant is full justification. If he was arrested without a warrant, the only justification would be that the person who escaped was actually there or had been there and again escaped. It seems that to justify an arrest without a warrant, the person sought must be actually in the house. Pocket Manual P. 212. 1 Allen 587; 120 Mass. 190; 10 Cush. Mass. 501. Civil Service Manual.

124.

Q. A real estate dealer makes a deed for a customer. The customer's sight is bad, and when he is about to sign it, the dealer substituted a deed for his own interest which the man with poor sight signs, thinking he is signing the original. What offense?

A. This is a form of forgery. Fraudulently obtaining the signature of a person to a written instrument, the false making whereof would be forgery. A felony. 266 - 31.

125.

Q. Under what circumstances may a witness, while testifying, refer to a paper or memorandum in order to refresh his memory of matters he is about to be examined on?

A. If he made his notes at the time of the incident he is about to testify tc, he can refresh his memory from them, otherwise not.

126.

Q. B, a licensed dealer in firearms, sells to C a revolver to which is attached an appliance which will muffle the noise of the revolver when fired. C is properly licensed to carry a revolver. What crime, if any, is committed by B or C, or by both of them? If B or C, or both of them, have committed a crime, is such crime a felony or misdemeanor?

A. The sale, giving, or offering and use of silencers or any instrument, attachment, weapon, or appliance for causing the firing of any weapon to be silent, or intended to lessen the noise of the firing is a violation of the law and is punishable by imprisonment in the State Prison for not more than 10 years. 261 - 1926.

B, the dealer, is guilty of a felony.

C, the buyer, is guilty of using a revolver to which a silencer is attached. A felony. 269 - 10 A.

127.

Q. An officer in plain clothes, assisting in traffic, signaled an operator of a motor vehicle to stop, holding in his hand and in plain view of said operator his police badge. The operator refuses to stop. The officer demanded to see his license and certificate of registration, which the operator refused to show. The motorist was prosecuted in court for failing to produce his license and registration. The operator was found not guilty and discharged. What was the reason for his acquittal?.

A. The officer in plain clothes should have displayed his badge conspicuously on the outside of his outer garment or coat.

128.

Q. State the various ways in which the use of an automobile aids the thief or bandit, so called, to commit crime, and, having committed crime, aids him to escape arrest and conviction.

A. (1) The ease with which he can steal a car and change the number plates. (2) The rapidity with which he can move the car from the place of the theft. (3) The ease with which he can pick up his confederates going to the scene, as well as the number of confederates he can carry. (4) The ease with which he can conceal tools or weapons in the car. (5) The great distance that can be covered in a short time going to and from the scene. (6) The amount of loot that can be carried in the car. (7) The possibility of using the car as a fortress to prevent being shot and to furnish protection in firing at pursuers. (8) The remote danger of the identity of the car being discovered from the hundreds of others on the street at the same time. (9) The ease with which the original car can be abandoned and another stolen. (10) The ease with which escape can be made from pursuers on foot or in a less powerful car.

129.

Q. Who licenses persons to resell tickets for a theatrical show and what restrictions relative to such reselling are placed upon the licensees?

A. The Commissioner of Public Safety. The licensee shall not resell such tickets at a price in excess of 50 cents in advance of the price printed on the ticket.

130.

Q. Under what circumstances, if any, does an officer or employee of a trust company, savings, or cooperative bank, or savings institution, render himself liable to imprisonment or fine, or both, for receiving deposits for the bank or institution of which he is such officer or employee?

A. Any officer of the above-named institutions who receives or permits the receipt of, and any employee who receives any deposit, knowing such company, bank, institution or banker is insolvent - penalty not more than 2-1/2 years or fine up to $5000. 266 - 54.

131.

Q. Under the law, it is a crime if a man has sexual intercourse with a feeble-minded female, even if said female is over 16 years of age and gives her consent to such intercourse.

John Jones, the father of a feeble-minded female, who is 24 years old, complains to you on July 22, 1928, that he saw James Smith having sexual intercourse with his daughter at 10.30 P.M. on July 10, 1927; that the day after the commission of said offense James Smith left town and did not return until about one week before the date of his complaint to you.

You obtain a warrant against Smith and arrest him and have him brought before the court for trial. At the trial, the father of saidfemale testified that he saw Smith have sexual intercourse with his daughter on July 10, 1927, and a reputable physician testifies that on said date the girl was feeble-minded. Smith does not take the stand and offers no evidence in his behalf.

Assuming the court believes the testimony of Jones and the doctor, can Smith be convicted upon the facts appearing in this question? Give reasons for your answer.

A. No, because in this case, there is no evidence that Smith knew that the girl was feeble-minded, so Smith cannot be convicted on the testimony of one witness only, unless his testimony was corroborated in a material manner. The father was the only real witness. The doctor testified as to the girl's mental condition, not to the unlawful act. The daughter could not be a witness as she was feeble-minded. Anyway, Smith could not be convicted of this offense, because the prosecution was commenced after one year had elapsed from the date of the commission of the crime. See 272 - 2 to 6 and 11.

132.

Q. Name three sets of circumstances under which a man kills another where he may be convicted of murder in the first degree.

A. (1) Murder committed with deliberate premeditated malice aforethought. (2) Murder committed with extreme cruelty or atrocity. (3) Murder committed in the commission of or attempted commission of a crime punishable by death or imprisonment in the State Prison for life. 265 - 1.

133.

Q. Under what conditions may the complaint be dismissed in court in a case of assault and battery where the complainant acknowledges satisfaction and does not wish to prosecute further?

A. When the assault was not a felonious one, or upon a sheriff or other officer of justice, or riotously, or with intent to commit a felony. 276 - 55.

134.

Q. A man takes a horse and vehicle from a barn without the consent of the owner. He uses it to move his furniture. He brings it back and puts it in the barn. What offense, if any, has been committed? (b) He takes a motor vehicle under the same circumstances. What offense, if any, has he committed?

A. (a) Unlawful appropriation, to wit: "did wilfully and without right take, drive, and use a horse and wagon, without the consent of the owner". (b) Using a motor vehicle without authority from the owner.

135.

Q. In all public reservations and parks there is posted a set of rules and regulations governing the use thereof. These rules and regulations are made by the officer or board in charge of such reservations and parks under authority conferred upon them by law. While in one of these reservations or parks you, a police officer, observe John Smith committing a violation of one of said rules, the penalty for such violation being a fine of $20. Under what circumstances, if any, would you arrest Smith without a warrant?

A. An officer may arrest such person in the place where the offense was committed, if he is unknown to the officer. 272 - 59.

136.

Q. A man comes in to you as a desk sergeant and states that he is bondsman for a man who has been held for the Superior Court, and he says that this man is about to leave the state. What would you do? Give reasons for the same.

A. I would inform him that he may at any time surrender the person he bailed and bring him to the court from which he was bailed or to the jail for the county, or that he could delegate the power of attorney to another in writing to do the same thing, but he must have a copy of the bail bond. Unless a default warrant had been issued by the court for the defendant's arrest, the police would have no power to arrest him, but the bailor could arrest him and the police would protect him from an assault.

137.

Q. What permit, if any, is a man required to have to: (a) Speak in Pemberton Square (b) On the Common (c) On Commonwealth Avenue?

A. (a) No permit required, provided he does not interfere with others. (b) Permit from Mayor, (c) Permit from the Park Commissioner.

138.

Q. Define the law in regard to possession of burglar tools.

A. Whoever makes or mends, or begins to make or mend, or knowingly has in his possession, an engine, machine, tool, or instrument adapted and designed for cutting through, forcing or breaking open a building, room, vault, safe, or other depository, in order to steal therefrom money or other property, or to commit any other crime, knowing the same to be adapted and designed for such purpose, with intent to use or employ or allow the same to be used or employed for such purpose; penalty, not more than 10 years in State Prison, or fine of not more than $1000 and not more than 2-1/2 years in Jail or House of Correction.

139.

Q. A man is under arrest for drunkenness. A bail commissioner is at the station to bail him. You are the officer in charge and you inform the bail commissioner that the man is too drunk to be bailed. He insists that you allow him to bail the man. What would you do in this case?

A. I would not allow the man to be bailed until he had so far recovered from his state of intoxication as to be safe to himself and others. 272 - 44.

140.

Q. A man comes into the station and reports that he was assaulted by one of your officers. He is bleeding from cuts on his forehead. What would you do? Tell in detail.

A. If necessary, I would call a doctor or render what first aid necessary. I would take the man's statement in writing and enter it in the journal. I would call in the officer who was accused of committing the assault, and have the man make the accusation in the presence of the officer, take the officer's statement, the statements of any witnesses, if any, and make a full report of the whole affair to my commanding officer. If I were the commanding officer and any violation of the rules had been committed by the officer, I would within 24 hours forward to the superintendent in writing, the statements of the complainant, the officer, and the witnesses, if any, for transmission to the commissioner.

141.

Q. You as the police officer see A commit a misdemeanor and B a felony. You do not arrest them but see both several days later. Could you arrest A and B? Give reasons for your answer.

A. I could not lawfully arrest A because the misdemeanor became a past offense when I did not arrest him upon sight, if it was an offense for which I could arrest without a warrant. I could arrest B without a warrant, because in case of a felony the arrest can be made at any time without a warrant.

142.

Q. As a sergeant what would your duties be in regard to police duty? Assignments? Duty in court?

A. It is my duty to take immediate charge of the patrolmen of my platoon, to instruct and assist them in their duties on their routes; to inspect each man separately preparatory to going on patrol and see that each man is properly uniformed and equipped; visit each man on his route at least once on his tour of duty; keep a memorandum, entering therein all matters of police importance and to report any neglect of discipline or duty on the part of my men to my commanding officer.

In assignments I would find out if the complaint were true; if it was a violation of the law; if any police action was necessary; if so, to attend to it at once; give the necessary orders to the officers on the different routes to prevent or abate the complaint; and to give a full report of the whole matter to my commanding officer.

My duty in court is to see that my men are punctual in attendance, have their cases properly prepared for presentation to the court, to assist the inexperienced officer in proper court procedure, and to report all cases of disrespect towards the court.

143.

Q. A police officer brings to the police station a woman charging her with loitering and soliciting. What evidence is necessary to convict?

A. It must be shown that the woman, during the preceding 3 months to the date of making the complaint, did habitually walk the streets in the night time, accosting persons of the opposite sex, for the purpose of prostitution, to convict of night walking.

In order to convict her for sauntering and loitering, it would be necessary for the officer to show that he ordered her to move along and that she failed so to do after seven minutes had elapsed.

144.

Q. Name three instances in which a police officer can arrest a person for an assault and battery without a warrant.

A. When it is committed in the presence of the officer; when ordered to arrest the guilty parties by a justice of the peace or other magistrate who has seen the assault and battery committed; and any assault and battery not committed in the officer's presence that may result in a felony.

145.

Q. What course of action would you take if you saw a soldier in uniform in a public place in your city selling merchandise, taking orders, and soliciting people, for money to buy his dinner?

A. I would arrest him without a warrant if he was unknown to me for "soliciting alms without a permit" provided he had no such permit. I would also put the additional charge of "wearing the uniform of the United States Army while taking orders for merchandise or soliciting, in a public street, without authority from the U.S. authorities". 264 - 10 A.

146.

Q. A man driving an automobile in an extremely careful manner hits, knocks down and injures a pedestrian who is conducting himself in an extremely careless manner. (a) What is the duty of the driver of the car under these circumstances? (b) If he has a duty to perform and fails to perform it, does this failure constitute a crime? If so, is the crime a felony or a misdemeanor?

A. (a) It is his duty to stop, make known his name, residence, and number of his vehicle, and he must make a written report of the accident to the Registrar of Motor Vehicles. 90 - 26. (b) It is a misdemeanor if he goes away without stopping and making himself known, and failure to notify the Registrar may cause revocation of his operator's license.

147.

Q. A man commits an offense in Essex County. The judge in Salem grants the warrant. You see the man on the street in Boston. What would be your course of action?

A. If the judge in Salem had territorial jurisdiction of the place where the crime was committed, I would arrest him and bring him back to where the warrant was returnable, to turn him over to the court and make my return on the warrant. If he demanded bail and the offense was a misdemeanor, I would allow him to be bailed and bring the bail bond along with the warrant, to which I would make my return to the court that issued it. If it was a felony, I would not allow him to be bailed.

148.

Q. A written warrant for the arrest of a person is placed in your hands at 4 P.M. on Saturday. What consideration would determine whether or not the person named in the warrant should be taken into custody that same evening? Explain fully.

A. If the offense charged in the warrant was a felony I would arrest the person regardless of the time; otherwise, if a misdemeanor, I would not arrest the person named after the adjournment for the day, of the court to which the warrant was returnable with a view to detaining the person over night, unless I had good reason to believe the person wanted might escape, and then only with the approval of my superior officer. P.M. Rule 44.

149.

Q. What instructions relative to arrest with and without warrants, and what advice in a general way, would you give to a police officer newly appointed as a member of your department?

A. I would instruct him that he has power to arrest any person named in a warrant that is properly issued. I would show him a warrant, explain that it must be addressed to him as a police officer of the city of Boston, or to any officer empowered to serve criminal process in this Commonwealth, that it must be issued by a judge or magistrate having jurisdiction of the subject matter, and his powers under it. I would tell him he could serve a warrant at any time and place, and if necessary, break doors to effect the arrest of the person named in the warrant.

I would instruct him that to arrest without a warrant, the offense must be a felony, or a misdemeanor amounting to a breach of the peace, and in the last case, it must be committed in his presence. That there is no authority for him to arrest without a warrant for statutory misdemeanors not amounting to a breach of the peace unless the statutes expressly provide for such arrest.

I would instruct him in how to make a return on a warrant and also in arresting for suspicion of a felony without a warrant. In any case where he is in doubt as to what his authority is, it would be better to err in the matter of doing too little rather than too much, as it is easier to excuse moderation than excess. I would also tell him in any case that he does not understand, his duty would be to ask myself or any other superior officer and that we would be glad to help him at any time. In any case, where an act of great violence occurs to secure the perpetrator right away.

150.

Q. You are ordered with several patrolmen to do an unlawful act by your sergeant. For instance, he orders you to break a door to effect an arrest and he had no warrant. Also, he did not tell you that he did not have a warrant. State just what you would do.

A. The rules and regulations require all officers to obey the orders of their superior officers. But a command by a superior officer does not excuse an officer either in the Army or civil life for committing an unlawful act. Com. vs. Blodgett, 12 Mass. 56. If I knew the sergeant was acting unlawfully and he did not have a warrant, I would not obey his orders. But if he made it appear that he was acting legally and I knew no better, I would obey his orders, and he and not myself would be the party liable. 263 - 3.

151.

Q. While making your rounds as a sergeant, two men approach you, one of whom makes the following complaint: He states that his friend, who cannot speak English, has paid $10 to an employment agency for the purpose of securing a position as laborer. He complains that he has not been given employment and the employment agent refused to return his money, saying that he would secure him a position later on. What advice would you give under these conditions?

A. I would immediately investigate to find if the agent were licensed to keep an intelligence office. I would ascertain whether or not the agent had received the money as alleged, and had not provided the employment. If so, I would order him to return the money. If he was not licensed, I would prosecute him for maintaining an intelligence office without a license so to do. If he was licensed, I would prosecute him for a violation of the terms of his license - accepting money to provide employment and not providing said employment. If he refused to return the money, I would also charge him with the larceny of the $10. 140 - 43.

152.

Q. You have been assigend by your superior officers to the following case: A number of mail boxes in private residences are being broken into and letters containing checks are being stolen. These checks are being deposited in the accounts of the various persons, believed to be using fictitious names, in different banks. State in detail how you would investigate this matter and what you would do in an effort to effect the arrest of the offender or offenders.

A. I would visit the different banks in Boston and get the description of the person depositing the checks and his signature to the checks. I would compare the signatures or endorsements with the signatures of those criminals who specialize in this kind of crime on the files at Headquarters. I would notify all banks to be on the lookout for any person who is depositing any other stolen checks not accounted for, and to hold him until the arrival of a police officer. I would notify janitors, agents, and mail men to be on the lookout for any persons acting suspiciously in hallways and to immediately notify the police. Have route officers be especially on the alert for such suspicious persons and give them any information that would help them in capturing the thief. Check up on all known thieves of this kind and ascertain where they are located and just what they are doing. I would run down any clues obtained from these methods, until I had eliminated the persons not concerned in the crime, and had finally located the real thief. I would watch him for further operations, and thus effect his arrest.

153.

Q. (a) While travelling your route on Sunday morning, you see a bakeshop keeper selling doughnuts to a customer at five A.M.

(b) A bootblack shining shoes at one o'clock A.M. Is there a violation of the law in either or both cases? State the reason for your answer.

A. (a) No violation of the law. Bakeshops may keep open on the Lord's Day up until 10.00 A.M. and between 4.00 and 6.30 P.M. for the baking and sale of goods usually dealt in by them.

(b) Bootblacks may keep open on the Lord's Day for business up until 11.00 A.M. No violation of the law in this case.

154.

Q. A stabbed B in the abdomen on the first day of January, 1927. A escaped and was not arrested until a year later. B died from the result of the wound on January 4, 1928. Could A be convicted of murder, or manslaughter, or any other offense? Why?

A. He is not guilty of murder or manslaughter, because the death must occur within a year and a day from the time when the wound was inflicted. He could be convicted of "Assault and battery with a dangerous weapon with intent to kill".

155.

Q. Suppose a man was committed to jail in default of bail to await trial; that while in this jail he made his escape therefrom by reason of assistance from Jones, an outside third party. What crime, if any, did Jones commit in giving such assistance?

A. Aiding and rescuing a prisoner, committed to jail and charged with (offense) crime. If the person rescued is charged with a felony, it is a felony for the person who so aids or rescues him. 268 - 15.

156.

Q. Under what circumstances may a person be arrested without a warrant although not charged with any particular crime?

A. It is an officer's duty to arrest persons on a reasonable suspicion of a felony, even though the felony charged is not proven. He may, under certain conditions, arrest persons who are insane or drug addicts or inebriates who have lost all power of control and are unable to take proper care of themselves. 123, section 80.

157.

Q. While searching a certain house for stolen property by virtue of a search warrant issued for that purpose, you discover two young girls, not inmates, in a serious condition, apparently as a result of an abortion performed on each of them. Under these circumstances, what would be your course of action? In your answer omit nothing of importance.

A. First, I would seize the stolen property, arrest the thief or person in whose possession it was found, and make a return on the warrant.

I would then question the girls carefully as to why they were on the premises, and, if they made any admissions as to their condition - that an operation had been performed upon them - I would question them as to who was responsible for their condition; who made the engagement for them to have the abortion performed; who performed it and assisted in the performance of it, and if any of those named were present, I would arrest them without a warrant. I would call a physician to examine the girls, and if necessary, send them to some hospital. I would apply to the courts for a search warrant to search for abortionist instruments, and have some officer in charge until I got the warrant, then make my search and seize all such drugs, or implements found and make a return on the warrant of my doings. I would arrest all concerned either as principals or accessories before or after the fact, and so charge them in court. If either of the two girls was in a dying condition, I would be sure to get a dying statement that would be admissible in evidence as to who was the cause of her condition and the one that performed the operation, etc.

158.

Q. Name several crimes in which the consent of the injured person is not a defense in a criminal prosecution?

A. Carnal knowledge and abuse of a female child under the age of 16 years. (2) Sexual intercourse with a known idiot or imbecile. (3) Abduction for marriage of female under 16 years. (4) Seduction, Abortion, Mayhem.

159.

Q. Explain the bearing of daily pawnshop returns on burglars, thieves, etc., as far as the work of the police inspectors is concerned.

A. Where the inspectors get an accurate description of the articles stolen, they can compare them with the articles pawned in the various pawnshops from their daily reports. Pawnbrokers' returns or reports contain the name, age, and address of the person pawning the article and a description of the goods pawned. In this manner, many stolen articles have been recovered and the thief traced from his description given by the pawnbroker, who in many cases is a valuable witness for the inspector.

160.

Q. In consequence of the commission of several larcenies of autos in a given district, you received an assignment to the district with orders to investigate the larcenies and arrest the person or persons who are responsible therefor. State fully everything you would do in your effort to comply with said order.

A. I would select two officers to assist me who are familiar with the different makes and types of cars, and who can operate cars; station the officers in the vicinity where the cars are being stolen; place a car apparently not under observation in a place where it might be taken by such thieves, the officers being in a place where they can watch such operations, with instructions to follow the thief or thieves to where they are disposing of or hiding the car, and then to make arrests. In this manner, they may discover the other cars and also they are in a fair way to convict the receiver.

I would myself cover all restaurants, pool rooms, garages, etc., where chauffeurs and thieves are likely to congregate, and I would pose as a buyer of a car similar to one of those stolen recently. I would also visit second hand car dealers, second hand part dealers, to try to locate some of the stolen cars. I would check up on known auto thieves and find out if they are operating in this vicinity, and if possible have them trailed. I would make inquiries at the Registry of Motor Vehicles Office as to who is registering cars similar to the make and style of those stolen, and compare engine numbers, etc., and follow up any clues so obtained until I had run down the thieves and stopped the stealing of cars on my division.

16

161.

Q. A man, while in a drunken condition, staggers and accidentally falls against a large plate glass show window, breaking it. He is arrested for drunkenness and an additional complaint is charged against him for breaking the glass. Can he be found guilty of this latter charge? Give reasons for your answer.

A. No. He cannot be found guilty of breaking the glass as it was really accidental. To find him guilty of this offense it must be shown that it was a malicious and wanton act.

162.

Q. State the character of evidence which must be secured to enable you to convict a man for the illegal sale of alcoholic beverages.

A. First, that there was a sale of such beverage, that is, that money or thing of value was passed in payment for the alcoholic beverage by competent witnesses. Second, that it contained more than one-half of one per cent of alcohol. Proved by a certificate from the state analyst. Third, that he had no license from the Alcoholic Beverage Control Commission or the local licensing authorities to sell such beverage.

Have the alcoholic beverage and implements of sale in court, and if seized on a search warrant, make a return of your doings thereon.

The delivery of more than a prescription called for by a licensed druggist, or the delivery of alcoholic beverages, in or from a building, booth, stand, or place, except a private dwelling, unless any part of it is used as an inn, eating house, or shop of any kind, or other place of common resort to a person not a resident therein is prima facie evidence of an unlawful sale.

163.

Q. If a police officer was to bring before you at night, while you were on desk duty as a lieutenant, a man whom he had unlawfully arrested, what action would you take as regards (a) the arrested man; (b) the patrolman?

A. (a) I would release the man, because I would be liable for a false arrest as well as the patrolman. That is, if it was apparent that the officer had no authority to make the arrest. I cannot usurp the powers of the judiciary and discharge persons arrested unless it is clearly a case of where the officer had no legal right to make the arrest.

(b) If it was a case of mere negligence or ignorance on the part of the police officer, I would instruct him in his authority to make arrests, and advise him to study his manual and other books. If it was a case of deliberate intent or spite, I would report the whole matter to my commanding officers for consideration, and instruct the arrested party that he could prosecute the officer both criminally and civilly for his action. Enter the whole matter in the journal.

164.

Q. State in not less than 100 words what you consider the value of the finger print system of identification. (b) Where was it first used?

A. The finger print system of identification is the most positive means of identifying a person known at the present time, and is fast being adopted by all leading police departments of the world. It is based on the configurations formed by the papillary ridges of the hands and feet which never change during life.

It is of great importance to the police officer in the identification of criminals already arrested, and in many cases no other clue is left at a crime scene but a few impressions of the criminal's fingers on some smooth surface, like a piano, window pane, table, etc., which can be readily photographed and developed, and often leads directly to the criminal. It is one of the most valuable aids to the police in the detection and arrest of crooks.

(b) This system was first known among the Chinese centuries ago, It was used in India as far back as 1858. But it was first used in actual criminal identification by Scotland Yard in England in 1901.

165.

Q. Suppose that in addition to being a lieutenant of police, you are commissioned a justice of the peace. State briefly what your proceedings would be in case a large number of persons were riotously assembled on your division.

A. If twelve or more persons were armed with clubs or other dangerous weapons, or if thirty or more persons, whether armed or not, were so assembled, I would go among them or as near to them as may be, and address them substantially as follows: "by virtue of my authority as justice of the peace granted me by the Commonwealth, and in the name of the Commonwealth of Massachusetts, I command all persons here so assembled, immediately and peaceably to disperse". If the persons so assembled did not disperse, I would in the name of the Commonwealth, call upon all persons present to assist me in suppressing the riot and making the necessary arrests; those refusing, or those required to depart who failed to depart would be part of the rioters. In such a situation, I would immediately get in touch with the station and ask for assistance.

166.

Q. A sergeant who has a proper warrant to search for alcoholic beverages, upon searching the premises designated in the warrant, finds 5 gallons of whiskey, 6 gallons of wine, 2 barrels of mash, 50 pounds of sugar, 2 bushels of wheat, used in making the mash, a copper still, a condenser, and a large quantity of bottles, glasses, and jugs. Which of these articles can the sergeant lawfully seize by virtue of the warrant?

A. The 5 gallons of whiskey, 6 gallons of wine, and the bottles, glasses, and jugs. In other words, seize the liquors described in the warrant, the casks and vessels in which said liquors are contained, and all implements of sale and furniture used or kept and provided to be used in the illegal sale or keeping of alcoholic beverages. 138 - 42.

167.

Q. While visiting in Springfield, Mass., you meet Thomas Brown, a resident of your city, for whom you know there is a warrant in existence, which you are sure is at the moment in your Station House. Brown is about to take a train for New York City. What would be your course of procedure?

A. I would arrest Brown knowing that the warrant was in existence, and I would bring him to the nearest police station, to be taken care of until I could make arrangements to bring him to Boston. If he demanded bail and the offense was a misdemeanor, I would allow him to be bailed. If the offense was a felony, I would not allow him to be bailed. In either case, I would make my return on the warrant, and if he was bailed, be sure to bring the bail bond back, returning it and the warrant to the clerk of the court to which it was returnable, placing him in the dock if he was not bailed.

168.

Q. A dead infant has been found in a doorway in a certain street. The Medical Examiner reports to the police that it is a clear case of infanticide, so called. He reports to the police that there are laundry marks on the clothing found on the infant. You are assigned on the case to investigate and arrest the person appearing to be guilty of the offense. State in detail how you would proceed and what you would do in the way of investigation.

A. I would visit all laundries in my city, and outside of the city, if necessary, for the purpose of locating the laundry using the same marking as was on the infant's clothing. If I was successful in locating it, I would ascertain from the person in charge the name and address of the person who had the laundry work done. I would then visit such address, and ascertain whether such a person resided there, and whether this person had a child. If I failed to get the information there, I would inquire in the neighborhood; examine the directory and telephone books, also the birth records of the city for a person of this name. If I was successful by any means in locating the person wanted, I would question her as to the child, where it is, etc., and if circumstances warranted, I would arrest her or him for the murder of the child.

169.

Q. A man has been arrested in Worcester for the Boston police on an indictment warrant returnable in Suffolk County. The warrant charged the commission of a bailable felony. Can the arrested man be admitted to bail; if so how?

A. He can be admitted to bail after his return to the county where the warrant is returnable (Suffolk County) on the order of the District Attorney or by the Suffolk Superior Court, not otherwise.

170.

Q. A burglar breaks through a window and evidently cuts his hands severely with glass. The tenants report that the window was not broken until some time after 11.30 P.M. No other traces can be found on the scene of the burglary, nor are any articles missing. What immediate use would you make of this fact?

A. I would immediately get in touch with all physicians and hospitals within my jurisdiction to ascertain whether or not any person had been or was being treated for cuts from glass, and notify the physicians that such person is wanted by the police on suspicion of burglary. I would cause headquarters to be notified and all the men of my division to be on the lookout for him, and take steps to cover all depots, terminals, and other avenues of escape. If he was arrested and the facts show that he entered the building with intent to commit a felony, I would charge him with burglary. If he failed to get into the building under these circumstances, I would charge him with "attempt to commit burglary".

171.

Q. Your attention is called to a well dressed man whom a patrolman has just brought into the station. The patrolman states he found him lying in an apparent stupor on the sidewalk in a residential district of the city. There are no obvious means of identification. What methods would you employ in your efforts to determine his identity?

A. I would immediately render first aid and call a physician; make a search of his person for possible information of his identity. I would send an officer to make inquiries in the vicinity where he was found, as to whom he might be, and whom he was last with. If I failed to establish his identity by these methods, I would cause headquarters to be notified, giving a full description of the injured man, and asking if inquiries had been made for a person answering this description, and comparing his description with those persons reported missing on our manifold. If the doctor ordered, or if he fails to recover, I would have him taken to the hospital for treatment.

172.

Q. John Jones, a constable, has arrested Charles Brown, whom he saw steal a pocketbook from the person of a woman.

Brown is resisting arrest. You appear at that time and the constable makes himself known to you and the cause of the arrest. He commands you to aid him in making the arrest. Would you assist him? Reasons.

A. Yes. A constable can require aid in the execution of his office in a criminal case, in the preservation of the peace, and in case of an escape or rescue of persons arrested on civil process. G.L. 37 - 13; 41 - 94.

173.

Q. A forges the name of B on a check for $40 and utters the same. You arrest A and bring him before the district court. May that court take jurisdiction of the case? Why?

A. Yes. District courts shall have original jurisdiction, concurrent with the superior court, of offences committed in their jurisdiction of all crimes and misdemeanors, except conspiracy and libel, where a penalty of fine, or imprisonment in the jail or house of correction is provided for. 218 - 26.

174.

Q. When may the following persons legally do business in their lines of work? (a) Public accountant. (b) Insurance broker. (c) Undertaker. (d) Moving picture operator.

A. (a) When registered and certified by the Director of Registration, Department of Civil Service and Registration.

(b) When licensed by the State Commissioner of Insurance.

(c) When licensed by the Health Commissioner.

(d) When licensed by the Inspector of Division of Inspection, Department of Public Safety.

175.

Q. A, who is present at a fire in a building belonging to another, removes goods therefrom to his own house. Under what conditions would this constitute larceny, A having no intent to steal at the time of removing the goods?

A. If, for no good reason, he fails within two days to restore the goods or give notice of his possession thereof to the owner, if known, or if unknown, to the mayor or one of the aldermen, selectmen, or firewardens of the place, he shall be guilty of larceny. G.L. 266 - 23.

176.

Q. What persons conducting as part of their business the retail sale of soft drinks are not required by law to be licensed as Retail Vendors of Soft Drinks?

A. Those licensed as innholders, common victuallers, druggists, and dealers whose principal business is the sale of groceries and meats or where sold to any persons when these soft drinks are not sold to be drunk on the premises. 140 -21D.

177.

Q. A complains to you that he wishes to prosecute B for maliciously defaming his character by speaking to people in public and telling them things that are untrue about him, thereby exposing him to public hatred and contempt. Is this criminal libel? Reasons.

A. No. Because the malicious defamations must be published, by either writing, printing, or signs, pictures, or the like. This is verbal slander and a civil action may be maintained.

178.

Q. While making your rounds as a sergeant, you see, 100 yards away from you, an automobile driver strike and knock down a person with his automobile. Instead of stopping, he continues on with increased speed. What would be your course of action: (a) With reference to the person knocked down; (b) With reference to the automobile driver in case you did not get the number of the registration of the machine?

A. (a) I would immediately apply first aid, obtain his name and address if conscious, telephone for the ambulance, and send him to the hospital, or if unconscious, take a good description of him and his clothing. I would cause a complete accident report to be made out with the names and addresses of the witnesses, to be turned in to the station and entered on the journal. If possible, I would cause his nearest relative to be notified.

(b) I would notify the station as quickly as possible of the accident with the best description I could obtain of the auto, its color, style, make, kind of tires, number of persons in the car, and anything else I could obtain from my own observation or from the knowledge of the witnesses and the general direction it was proceeding. I would make a search of my division for such car, at the different garages and other likely places. If I found the car, I would immediately note the condition of it and the driver. If he was drunk, I would arrest him for drunkenness. In any case, I would obtain his license number and registration and apply to the courts for a process for "Driving so as to endanger the lives and safety of the public" and for "Being involved in an accident in which a person was injured and not stopping to make himself known", and any other complaint that in the circumstances would indicate a breach of the law.

179.

Q. What advice would you give a man who wanted:

(a) A marriage license,
(b) A building permit,
(c) A dog license,
(d) A license to keep and sell gasoline,
(e) To erect a street clock on the sidewalk in front

of his store at Boylston and Park Sq.

(f) To erect a sign over his store protruding over the sidewalk,

(g) To conduct a sight-seeing automobile business in the city,

(h) To conduct a theatre?

A. (a) City Registrar, Births and Marriages, City Hall.

(b) Building Commissioner, City Hall.

(c) Apply to the station house where he resides and make application for such license, accompanied by the fee, and the license is then granted by the Police Commissioner.

(d) Street Commissioners and Fire Marshal (Fire Commissioner in Boston).

(e) Street Commissioners grant these permits; but they have a ruling not to grant such permits especially in the area named.

(f) The Street Commissioners grant such permit if it protrudes over 6 inches over the street. The Commissioner of Public Works issues a permit to occupy the street while erecting such sign.

(g) Police Commissioner

(h) The Mayor of Boston.

180.

Q. As you are passing the store of John Jones, a grocer, he calls you in, points to his clerk, who, he says, has stolen $50 from the cash register. You and Jones proceed to secure a warrant, and as you are going to serve it, Jones, undergoing a change of heart, asks you not to serve it, but to let the matter drop. What course of action would you take?

A. I would serve the warrant. It is not optional with the officer whether or not he may serve the warrant. If the warrant is regularly issued and nothing wrong with it, the officer is bound to serve it, and he is liable criminally if he does not. The warrant commands the arrest of the person named therein and he must arrest him and make a return on the warrant of his doings thereon.

181.

Q. Name five processes issued by the lower court in the prosecution of cases.

A. Warrant; Summons; Capias; Writ of Habeas Corpus; Subpoena; Precepts; Search Warrant.

182.

Q. Having stopped a driver of an automobile for driving through a one-way street in the wrong direction, you smell a strong odor of alcohol on his breath, but his condition is not such as to justify arresting him for drunkenness. Outline your course of action and state under what circumstances, if any, you would arrest this man.

A. I would ask him for his license to operate and his registration. I would take his name, address, license number and registration number. I would ask him if he had been drinking and what he had drunk, noticing if he had any liquor in the car. If he had no license to operate on his person or in the car I would arrest him without a warrant. If there was no reasonable excuse for his action in driving through a one-way street in the wrong direction or to account for the smell of alcohol on his breath, I would prosecute him in court for "Operating an automobile while under the influence of liquor" (of course, I would have to show that he was under the influence of such liquor, by his actions, speech, etc.) and "Operating a motor vehicle in a one-way street" (wrong direction), and if I arrested him, also for "Operating without a license".

183.

Q. In the crime of receiving stolen property, what elements must you prove before you can convict for this offense in court?

A. (1) That the goods were stolen. (2) That the defendant received them. (3) That he had knowledge or reasonable cause to know that the goods were stolen.

184.

Q. A discovered B in the bedroom of A's wife. Both B and the wife were in their night clothes. He immediately shot and killed B. Was the homicide justifiable?

A. No. The law, in recognition of human frailties and extreme anger in such a case, would not call this murder, but the man would be guilty of voluntary manslaughter.

185.

Q. How long must the following persons keep goods received by them before they may sell or dispose of them:

(a) Pawnbrokers, (b) Second hand dealers, (c) Junkshop keepers?

A. (a) Four months; if the goods are perishable, one month. (b) Thirty days. (c) One week.

186.

Q. You, as a sergeant, make a raid in a certain hotel, and on the table you find a pack of cards, a roulette wheel, a revolver, and some poker chips. Three men are gambling and you arrest them. What other offense, if any, would you charge the men with in addition to gaming? What would you seize on the warrant?

A. I would seize the roulette wheel, cards, and poker chips as evidence and use them in court for that purpose. I would also seize the revolver and any other personal property by virtue of the search warrant. I would charge the men with gaming, and the proprietor with maintaining a gaming nuisance. I would try to find out who owned the revolver, and if he was an alien, I would charge him with the unlawful possession of a revolver. If he was found guilty, the revolver would be turned over to the Commissioner of Public Safety. The other property seized with the gaming implements would be forfeited on conviction of the defendants, and ordered destroyed by the court.

187.

Q. A police officer finds a watch on the street, the owner of which shortly appears. He satisfies the officer that the watch is his property. Would the officer have a right to deliver this watch to him at that time? Why?

A. No, because the officer shall deliver lost property coming into his possession by virtue of his office, to the officer in charge of his station. The owner may receive his property at the station upon signing a receipt for such property.

188.

Q. Of the shows or performances mentioned underneath, specify those that constitute Sunday breaking when given in a public hall, admission to which is secured by money or its equivalent: Sparring contest, moving picture show, rope dancing, illustrated lecture, operatic singing.

A. The sparring contest and rope dancing.

189.

Q. Which of the following crimes is the more serious offense: accessory before the fact, or accessory after the fact?

A. Accessory before the fact, because the penalty may be imposed for this offense as provided for the principal felon. The penalty for accessory after the fact is not more than seven years, S. P.

190.

Q. Under what conditions, and to whom, may a child between the ages of 7 and 17 years, who has been arrested as a delinquent or wayward child, be released by an officer in charge of the station?

A. If the child has been arrested on a warrant and the court or trial justice has not otherwise ordered or directed, or when a child is arrested without a warrant, such child may be released by the officer in charge of the station to the parent, guardian or person with whom the child resides, or to any reputable person on a written promise that such person will be responsible for the presence of said child in court at the time and place when the child is to appear. Unless the arresting officer requests in writing that the child be held, but his request does not prevent the child being bailed.

191.

Q. John Smith comes to you, a police lieutenant, and tells you the following story: Last week John Brown stole his automobile and immediately went away with it. Three days later a man named Williams came to Smith and told him that for $130 he would deliver the automobile to him. (a) What advice would you give Smith and what course of action would you follow?

(b) Assuming that Smith had already accepted William's offer of $130, received the car, and wants to prosecute him, what course of action would you follow?

A. (a) I would tell Smith not to pay the money. I would apply for a warrant against Brown for the larceny of the car. Investigate to find out if Williams actually has possession of the car. If so, apply for a warrant against him for "Receiving Stolen Auto" or "Concealing the Same".

(b) In this case, I would apply for a warrant for Williams for "Receiving Stolen Goods". If he had enough power to be able to deliver the auto on the payment of the money, he is a receiver. If Williams, as a part of the transaction, had Smith agree not to prosecute, both would be guilty of "Compounding a felony" and both would be guilty of "Conspiracy". If Brown and Williams were in an agreement to make Smith pay the money, they are also guilty of Conspiracy. I would apply to the court for a warrant against Williams for the larceny of the $130 and if it was refused, tell Smith that his only remedy was to apply to the civil courts to get his money.

192.

Q. A patrolman refers to you as a sergeant the following facts: Upon receiving information that two boys just sold a large amount of lead and copper to Jensen, a junk dealer on his route, he goes to Jensen's shop to make an investigation. Just outside the door he meets Jensen who is locking up for the night and who refuses to open the door in answer to the patrolman's request that he do so. What advice would you give the patrolman?

A. Advise the patrolman to interview the boys, to ascertain if they had sold such articles to the junk dealer, and where they obtained said articles. To report the facts to the commanding officer so that he could obtain permission from the police commissioner for the patrolman to examine the books of the junk shop keeper the next day. If such permission was granted or a search warrant for stolen goods was granted, and the facts were true, have him prosecute the junk shop keeper for doing business with minors; and if the goods were stolen, to seize them and put the additional charge of receiving stolen goods against the shop keeper, and charge the boys, if under 17 years, with delinquency, to wit: "larceny", or if over 17, with larceny of the goods or a greater crime if necessary. I would have the patrolman make a full report of the whole affair so that the commanding officer could make a complaint to the police commissioner against the junk shop keeper for a violation of the terms of his license.

193.

Q. A was informed by his physician that he was dying from an incurable disease. He requested B to procure formaldehyde of potassium so that he might commit suicide. B does so secure the poison and gave it to A, who took some of the poison and died. Is B guilty of any crime?

A. Yes. Murder in the second degree. One who counsels or aids in the committing of suicide by another and is present when the act is committed causing the death, is liable for murder in the second degree. Com. vs. Bowen 13 Mass. 556.

194.

Q. What are the different degrees of murder and the distinction of each?

A. Murder in the first degree, and murder in the second degree. Murder in the first degree is murder committed with deliberate premeditated malice aforethought, or in the commission of a felony punishable by death or life imprisonment in the State Prison, or with extreme atrocity or cruelty. Murder in the second degree is murder that does not appear to be murder in the first degree. Where some circumstance is lacking which is enough to reduce it from murder in the first degree to murder in the second degree. Example: A homicide that is the result of a felony not punishable by death or imprisonment for life in the State Prison is murder in the second degree. The degree of murder is found by the jury.

195.

Q. Mrs. Clark is walking along the street. B, a thief, in order to get her bag, struck her a hand blow. Instead of his getting the bag, however, it simply dropped to the ground and a detective who was watching, grabbed B before he could pick up the bag. Of what crime is B guilty?

A. If the blow struck was simply enough to knock the hand bag out of the woman's hand, it would be an "attempt at larceny from the person". If there was a violent blow struck which would require a serious amount of force to knock the bag out of her hand, it would be an "attempt at Robbery", especially so if she were injured by such blow. In either case, there was no larceny because the thief never had actual possession of the bag.

196.

Q. B occupied a room in the defendant's house. She spilled colorite on the wall of the room. Defendant discovered the damage during B's absence and took her bag and its contents and refused to give them back until B should pay $5 for the damage. Is the defendant guilty of larceny? Give reasons.

A. If the defendant took the bag on the belief that she had a right to hold it until her damage was paid for, it would not be larceny because of no felonious intent. But, if she took the bag well knowing that she had no right to take it, she would be guilty of lraceny because she is a trespasser from the beginning, if she held the bag after a demand made by the owner for it.

197.

Q. State when and how alcoholic beverages may be sold on Memorial Day and Armistice Day?

A. Hotels, restaurants, taverns, and clubs may sell during usual hours authorized, except that no such sales shall be made between the hours of 8.00 A.M. and 1.00 P.M.

"Package Goods Stores" may sell alcoholic beverages between the hours of 1.00 P.M. and 11.00 P.M., and until 11.30 P.M. the night before holidays.

Drug stores may sell on the prescription of a physician only. They are forbidden to sell alcohol or alcoholic beverages without such prescription on holidays.

Manufacturers, wholesalers, and importers cannot sell or deliver alcohol or alcoholic beverages in Massachusetts.

198.

Q. A went to a bake shop and gave F a $10 bill out of which to take the price of a loaf of bread. F refused to give A any change and threw him out of the store, keeping the whole $10. Of what is F guilty?

A. F is guilty of the larceny of the whole $10 if he fails to make change. When A gave him the $10 in payment for the bread, he had no intent to part with the whole $10. F had a right to take out the price of the bread, but he did not have any right to take even that until he had changed the bill and selected the amount due him. He is guilty of the larceny of the $10.

199.

Q. The defendant, a policeman, was informed that an offense was about to be committed in a certain house, and he entered the house and arrested the offending person; he then wrongfully picked up and carried away articles of jewelry lying in the house. He is charged with the crime of burglary, which requires an unlawful breaking and entering. Is it possible to hold that the unlawful act done after entering the house can make the original entry unlawful?

A. No. The policeman is guilty of larceny only. The intent and the act must coexist in burglary. He entered the house legally and his stealing of the jewelry after such entry does not make his original entry criminal unless he had the intent to steal the jewelry before he entered. In burglary, he must intend to commit a felony at the time of such unlawful entry to make it a crime. His entry was legal; his subsequent acts do not make the original entry illegal.

200.

Q. Dolan, a former employee of a packing company, was solicited by the defendant to assist in the stealing of a shipment of goods. Dolan communicated the fact to the company, and the latter agreed to let the plan be carried out, in order to trap and convict the defendant. The original plan failed.

Thereafter, the company requested Dolan to arrange again with the defendant to steal the goods. This Dolan did, and he, together with the defendant, worked out a joint plan. This was communicated to the company, which prepared a shipment of goods, placed it on the platform, and instructed the platform boss to make the delivery to the defendant when he should claim them. The plan was carried out, and the defendant took the goods and converted them to his own use with criminal intent. Did the actions of the company in this case, constitute such consent or acquiescence as to prevent the defendant from being guilty?

A. Yes, because the taking was done with the full consent of the company, and by their solicitation. Larceny is the felonious taking of the property of another without his consent, with intent to deprive him permanently of its use and to convert it to the taker's use. 48 Texas 363; 13 Ala. 330.

201.

Q. Name 6 larcenies that are felonies even though the amount involved is less than $100 in value.

A. (1) Larceny in a building, ship, vessel, or railroad car.

(2) Larceny at a fire.

(3) Larceny from the person.

(4) Larceny or destruction of a will, codicil, or testamentary document.

(5) Larceny of a bicycle on a second conviction of the value of $10 or more.

(6) Larceny of paper designed for bank bills.

(7) Larceny or embezzlement from the State Treasurer.

202.

Q. B made an unjustifiable assault and battery upon C. C had a weak heart. A person of ordinary health would not have died as a result of the injury, but because C already had heart disease, he died as a result of it. B had no reason to suppose that C was other than a healthy person. Of what is B guilty?

A. Every person is presumed to be guilty of the result of his unlawful act. In this case B committed an assault and battery on C. As a result of the injury C died. B is guilty of the homicide. Assault and battery is a misdemeanor therefore, B is guilty of "Manslaughter". If C died as a result of a felony, it would be "Murder".

203.

Q. You arrest a fugitive from justice for the Los Angeles police, and he is brought before the court and arraigned and his case continued. Four days before his case is to come up again, two officers from Los Angeles, with the necessary papers, come for this man and tell you that they would like to get the prisoner so that they can take the noon train back. How can this man be turned over to the officers?

A. If the governor has issued his warrant for the delivery of such person, it is ample authority to arrest him wherever he may be found. He cannot be turned over to the Los Angeles officers until he is brought before the courts and informed of the demand for him, the charge, his right to procure counsel, and his right to a writ of "habeas corpus". If he is willing to waive his rights to such writ and consent to return to California, he must sign such waiver or consent in his own writing and he is then turned over to the named officers. 276 - 19-20 N.

204.

Q. A man has been arrested by you and found guilty by the court of larceny and is given 3 months sentence in the house of correction; the sentence is then suspended, and the man given 6 months probation. This man lives in the district where you do duty as a sergeant. How, if at all, can this man be brought into court for a breach of the conditions of his probation? How, if at all, can this man secure a trial in the superior court for this offense?

A. He can be arrested by a probation officer at any time without a warrant, before the disposition of the case, or the court may issue a warrant for violation of the terms of his probation. Or he can be arrested for any other offense he may be guilty of that gives the officer the right to arrest without a warrant, and the attention of the court called to the fact that he is on probation.

He cannot be tried in the Superior Court on this offense because when he accepted a suspended sentence, he waived his right of appeal.

205.

Q. You, as a police officer, with intent to make an arrest, lay your hand on M. M breaks away from you and is gone. Does your action constitute an arrest?

A. It would constitute an arrest, if I had told him I was a police officer, my intention to arrest, and the charge. Otherwise, it would not be an arrest, if he did not know me and he was not actually engaged in the commission of a crime.

206.

Q. A is selling tickets outside of the Harvard Stadium for a football game between Harvard and Yale. What would satisfy you that he had a legal right to do so?

A. If he was licensed by the Commissioner of Public Safety and was not selling such tickets at a price in excess of 50¢ above the price printed on the ticket.

207.

Q. (a) Suppose that A, a doctor, gives B, a nurse, a certain poison to give C as a medicine. B innocently does so, having no knowledge of its being poison. The doctor in so giving B the poison, intends to kill C. C dies as a result of taking the poison.

(b) Suppose, in the above case, A gave B the poison to give to C as a medicine. B does so knowing that it is poison and agreeing with A to administer it. C dies from such poison. What crime or crimes have both A and B committed in each case? A was not present in either case.

A. (a) A is a principal in the first degree to the murder of C. B is guilty of no offense in this case.

(b) A is an accessory before the fact to murder. B is guilty of murder in the first degree in poisoning C. Both are guilty of conspiracy.

208.

Q. What restrictions are placed on a retail druggist in a sale of alcoholic beverages or alcohol?

A. Druggists holding an Alcoholic Beverage license, can sell alcohol or alcoholic beverages on a prescription from a doctor at any time. They can sell on a certificate signed by the purchaser, alcoholic beverages or alcohol,week days from 8.00 A.M. to 11.00 P.M. Cannot sell on Sundays or legal holidays or polling hours.

Druggists having a certificate of Fitness only, can sell alcohol or alcoholic beverages on a prescription of a doctor's at any time. They cannot sell alcoholic beverages without a doctor's prescription. They cannot sell alcohol without a prescription on Sunday or legal holidays or during polling hours.

209.

Q. John Jones disguises himself by dressing in women's clothes. Would he be violating any law by so doing? If so, how?

A. It would be no crime unless he so disguises himself with intent to obstruct the due execution of the law, or to intimidate, hinder, or interrupt an officer or other person in the performance of his duty. 268 - 34.

210.

Q. You are given three warrants to serve: (1) Search warrant for intoxicating liquors unlawfully kept. (2) Search warrant for drugs illegally kept. (3) Search warrant for gaming implements. What articles can you legally seize under each warrant, and what persons, if any, may you arrest at the time of search?

A. (1) Seize the liquor, the vessels in which it is contained and all implements of sale and furniture used or kept and provided to be used in the illegal keeping and sale of such liquor.

(2) Seize all drugs illegally kept, arrest the person in whose possession they are found, and arrest all persons present where such drugs are found.

(3) Seize all gaming implements, all personal property, furniture, and fixtures there found, and arrest the

keepers and all persons found there participating in any gaming, and all persons present whether gaming or not.

Make a return on each warrant, stating what I have seized and the persons arrested. Complain of the persons arrested in court.

211.

Q. What authorities issue a license or permit for the following: (a) Infant's Boarding House; (b) Manufacturing Intoxicating Liquor; (c) Transient Pedlar; (d) Private Detectives?

A. (a) State Department of Public Welfare. (License)

(b) Alcoholic Beverage Control Commission. (License)

(c) State Department of Labor and Industry, Director of Standards. (License)

(d) State Commissioner of Public Safety. (License)

212.

Q. You have arrested a man on a warrant for stealing a watch and have reason to believe the watch is in the man's house. Would you be justified in breaking into said house to procure the watch or would it be necessary to procure a search warrant? Reasons.

A. In any case of robbery or larceny, where the thief has been arrested, the law makes it mandatory upon the officer to seize the property alleged to have been stolen wherever it may be found. If I knew that the watch was in the man's house, I would go there and, after announcing my office and purpose, if I was refused admittance, I would break in and secure the watch, but I would not be justified otherwise, and in any case where I was not absolutely sure that the goods were in the house, I would apply for a search warrant to search for the stolen watch or goods.

213.

Q. You receive a telegram from New York requesting you to arrest E, a description of whom is given. The telegram is signed by the police captain in New York, but no statement of facts on which the arrest is requested is given. Are you justified in arresting E?

A. No. The person whose arrest is requested must be charged with a crime against the demanding state, and a certified copy of the indictment or complaint must be forwarded, or such information as to his description, the crime he committed, etc., as will justify our courts to issue a fugitive warrant for his arrest, as this is the only legal way to accomplish his arrest in Massachusetts.

214.

Q. Your attention is called to a child pledging an overcoat in a pawnshop. What is your duty under the circumstances, in case the child claims to have been sent by his father? State reasons.

A. I would take the name and address of the pawnbroker and the child also, investigate the child's story to find out if it were true or whether or not he had stolen the coat. If the child had stolen the coat, I would prosecute the pawnbroker for receiving stolen goods and the child, if under 17 years, as a delinquent child, and if over 17 years, for larceny of the coat. I would make a report of all the facts of the case to my commanding officer, to be reported to the police commissioner, because no pawnbroker shall make a loan, directly or indirectly, to a minor, knowing or having reason to believe him to be such, and for prosecution in court for such violation.

215.

Q. A patrolman brings to you, as lieutenant, several push cart pedlars whom he has arrested. Name three different charges you would entertain against them. Specify what evidence you would require to hold a prisoner in each case and on what evidence you would refuse to hold him.

A. Peddling without a license so to do; peddling articles forbidden by law; peddling articles not enumerated in the license. In the first case, peddling in any form without a license from the Director of Standards (State) or the Health Commissioner. In the second case, peddling jewelry, furs, wines, spiritous liquors, whether licensed or not. In the third case, peddling things not enumerated on his license, such as balloons, flags, groceries, etc., on a license issued by the Health Commissioner.

I would refuse to hold the arrested party, except in the second case, if I found he was selling goods, fish, or fruits, vegetables, or other farm products, produced by his own or his family's labor, or if he was properly licensed.

216.

Q. One of your patrolmen reports to you that he has discovered a man living on his route whom he knows is wanted in Montreal, Canada, on the charge of obtaining money under false pretenses, which is an extraditable offense. This patrolman reminds you that you have in the station house a properly certified copy of the warrant against this man issued by a court in Montreal. The officer asks your permission to go to court and get a fugitive warrant for the arrest of this man.

What advice would you give the officer relative (a) to his request, and (b) as to what he can do as a police officer to bring about the apprehension of the man in question?

A. (a) I would advise him that our state courts do not take jurisdiction of a case of this kind; but leave it to the Federal Courts, as it is a Federal matter and for him not to apply to our courts for such a warrant. See U.S. Statutes, Title 18, Chap. 20, Section 651.

(b) I would advise the officer that the information he has discovered should be brought to the attention of the British Consul, who would apply to the nearest District Court of the U.S. for a fugitive warrant for this person, and it would be served by a U.S. Marshal unless it was especially directed to the police officer.

217.

Q. A is arrested for treason. He confesses his guilt to the officer who arrests him. Upon arraignment in court A pleads "Not guilty". Upon the trial of A, the arresting officer while on the witness stand, repeats A's confession. The Government offers no other evidence against A. Can "A" be convicted of the charge made against him? Give reasons for your answer.

A. No. He could not be convicted on the officer's testimony alone. It requires two witnesses to the same overt act of treason for which he was indicted, unless the defendant confesses himself in open court. 264 -4.

218.

Q. You arrest a man who is wanted in Philadelphia, Pa., upon a charge of larceny of an auto. After his arrest, this man signs a printed document by which he waives his right to a writ of habeas corpus and releases the arresting officer from liability of any kind arising from or by reason of his arrest. Before you have obtained rendition papers from the Governor, an officer from Philadelphia arrives at your station and requests that you turn the arrested man over to him for conveyance to Philadelphia. Would you comply with the request? Give reasons for your answer.

A. If this man was arrested on a fugitive warrant, I would bring him before the court, where after being warned of his rights he could sign such waiver and be then turned over to the officers. They would receive a copy of the signed waiver, which is their protection.

If this man was arrested without a warrant on suspicion of a felony, as is sometimes done, and he was found not to be guilty of such felony, in Boston, he could sign the waiver and be released. In such case, there is no law to prevent him from going back to Philadelphia if he wanted to and, if he signed the waivers as described above, it would show that he went back voluntarily and was not forced out of the state, which would protect the officer.

However, it is always best to have rendition papers signed by the Governor, because in this case, if the defendant changes his mind after agreeing to go back without papers, and before arriving in Pennsylvania decides that he won't go to Philadelphia with the officer, he could not be held.

219.

Q. While making your rounds as a sergeant, you notice a man talking to three little girls, obviously strangers. He invites them to a nearby house of questionable reputation, promising them candy if they will go with him. What course of action would you pursue?

A. I would question the little girls as to what the man wanted them to do, in his presence (so as to be admissible in evidence) and if he was enticing them into the building for an immoral purpose, I would arrest him for that crime, i.e., soliciting a female child for the purpose of.......... If he had simply asked them into the house without stating that he was going to do anything immoral, I would ask him his name, address, business, and get a good description of him for comparison with any person who may be enticing children for such a purpose. I would warn the children not to have anything to do with strange men, and then I would notify the children's parents to warn them also. I would investigate conditions concerning the house and take means to get rid of it as a common nuisance, if it was being used for immoral purposes, etc. I would have the officer on the route watch the house and make a report of the whole affair to my commanding officer.

220.

Q. A patrolman reports to you as desk sergeant that, while passing a certain tenement block on his rounds, he hears moaning and on investigation, discovers a bed-ridden old man desperately ill. The old man appears to be a foreigner, for he knows no English. The patrolman can make no guess as to his nationality. What would you do?

A. I would have the officer question the neighbors as to his nationality, relatives, friends, and whether or not he had a doctor's care. I would send, if necessary, officers who knew foreign languages, or interpreters. If he was not under a doctor's care, I would have him removed to the City Hospital, or if more feasible, call a doctor for him. If circumstances showed that the man had sons or daughters and he was destitute and they failed to support him, have the officer prosecute them in court for such offense. Under such conditions I would call the case to the attention of the Department of Public Welfare. Of course, if the man was suffering from a contagious disease, I would keep all officers and others away from him, call the case to the attention of the Health Commissioner and be governed by his orders. If necessary, as a means of identification of the man, send out a teletype message with his description, etc. Enter all facts in the journal.

221.

Q. Suppose an employee of a gas company complained to you that he was refused admittance to enter a certain dwelling house to examine the gas pipes, in the lawful performance of his work, and he requests information as to how he may legally gain such admission. What advice would you give him?

A. This being a matter in which I, as a police officer could not interfere, I would advise him, if he had written authority from the officials of his company to enter, to apply to the court or magistrate for a search warrant to enter such dwelling. The court or magistrate would direct the sheriff or any of his deputies, or a constable to go with him to such premises and force an entrance.

222.

Q. Under what conditions may public entertainment be lawfully given on the Lord's Day when admission fees are charged?

A. On a license from the mayor or the selectmen of a town. The entertainment must be in keeping with the character of the day and not inconsistent with its due observance; that no such license granted to have effect before 1.00 P.M., and have the approval of the Commission of Public Safety in writing.

223.

Q. In what crimes can there be no accessories before the fact?

A. In treason, because of the gravity of the offense; in manslaughter, because this offense is generally committed without premeditation; in a misdemeanor, because this type of offense is of so little import that all who are in any way concerned with it are principals.

224.

Q. A man aids and assists B to escape from prison under the following conditions:

(a) After being convicted and sentenced to State Prison.

(b) Charged with a felony and awaiting bail at the Charles Street Jail.

(c) After being convicted and sentenced to 10 days for being drunk at Deer Island (House of Correction).

(d) Being charged with a misdemeanor and awaiting trial at the Charles Street Jail.

What offenses is he guilty of, and would they be felonies or misdemeanors?

A. (a) A felony - 10 years in State Prison or $500 fine. Chapter 268, section 15.

(b) A felony - 10 years in State Prison or $500 fine.

(c) A felony - 7 years in State Prison.

(d) A misdemeanor, and he would be liable to 2 years in the House of Correction or $500 fine.

225.

Q. Who grants licenses in the following cases?

(a) To sell small wares in the public street?

(b) To be moving picture operators.

(c) To transient vendors.

A. (a) The Director of Standards; Department of Labor and Industry.

(b) Inspection Department of the Department of Public Safety.

(c) The Director of Standards; Department of Labor and Industry.

226.

Q. A counsels B to commit a larceny of $5000. B undertakes to commit the larceny but fails in its perpetration. (a) What crime has been committed, if any, by A or B, or by both? (b) Is it a misdemeanor or a felony?

A. (a) Both are guilty of an "Attempt to commit larceny" for which crime the penalty is 2 years in the House of Correction.

(b) It is a misdemeanor. Attempt at larceny is a misdemeanor and all who are in any way concerned therein are equally guilty.

227.

Q. Define (a) Delinquent Child; (b) Wayward Child.

A. (a) A child between the ages of 7 and 17 years who violates any city ordinance or by-law, or who commits any crime not punishable by death or imprisonment in the State Prison for life.

(b) A child between the ages of 7 and 17 who habitually associates with vicious or immoral persons, or who is growing up under conditions exposing him to lead an immoral, vicious or criminal life.

228.

Q. Under what circumstances may a search warrant be granted to search for alcoholic beverages in a dwelling house?

A. When at least one of the complainants makes oath that he has reason to believe and does believe that such liquor has been sold therein or taken from there for the purpose of being sold elsewhere by the occupant or by his consent and permission contrary to law, within one month next before making such complaint, and is then kept therein for sale contrary to law by the persons complained against. 138 - 43.

229.

Q. State the general rule for the lawful use of your revolver, and in it state five situations where you would be upheld by law and your department for its use.

A. (1) To protect myself from death or serious injury.

(2) To protect another person unlawfully attacked from death or serious injury.

(3) To prevent the escape of a convicted felon or one who has committed a serious felony in my presence, other means being insufficient to prevent such escape.

(4) To kill a wild or dangerous animal or one that has been so badly injured that humanity requires its removal from further suffering.

(5) To give an alarm for an important purpose.

230.

Q. Name five misdemeanors for which you can arrest without a warrant even though they are not committed in your presence.

A. (1) Tramps and vagrants, upon view or information of another person.

(2) On the order of a justice of the peace who has seen an assault and battery, affray, or riot.

(3) On the order of the presiding officer at an election or primary, for a violation of the election laws.

(4) For certain offenses committed on railroads and railways, where a railway or railroad officer makes an arrest, he may turn him over to a police officer.

(5) In the case of any assault and battery committed out of his presence where a wound is given which might result in a felony.

231.

Q. John Jones, who is a builder, secures a construction loan, secured by mortgage of real estate, for the purpose of paying labor employed in the construction of a building. He applies the proceeds for other purposes than paying the laborers. Could a prosecution be maintained in this case? If so, what would be the charge?

A. Yes. The money loaned must be used for the express purpose for which it was borrowed.

Charge: Misuse of the proceeds of a construction loan; penalty, fine not over $500, or not less than 1 year in jail or both. 1928 - chapter 351.

232.

Q. A man was about to be married. His father, without the man's knowledge, built a dwelling house for him which he furnished completely. On June 15th, A was married and his father delivered to him a deed of the property. A and his wife immediately left on their honeymoon and did not return until the 6th of July. On June 30th, X intending to injure A, set fire to the house. Is X guilty of Arson?

A. Yes. Under our statutes it is arson, if a dwelling is burned whether occupied or unoccupied, provided the burning was wilful and malicious. 266 - 1.

233.

Q. A and B were friends but both were the enemy of C. Following an altercation between the three, A and B captured C. A wished to kill C, but B insisted that he be turned over to the authorities. In order to accomplish this, B locked C up in his cellar. During the night A decided to kill C, so he went to B's house, unlocked the outside cellar door and went down the stairs into the cellar. He was about to kill C when B came through the inside cellar door and sent him home. Was A guilty of burglary?

A. Yes. When the outside cellar door is locked as a preventative against any person entering it, it is not necessary to open an inside door. In this case, there was no inside door to open before A was in the presence of C. B evidently entered from some other door in time to prevent the killing. A made his breaking and entering with intent to commit a felony (murder) which makes the crime of "burglary" complete.

234.

Q. B took his automobile to a repair shop to be repaired. When the work was done, the repairman demanded $150, which B said was exorbitant. The repair man refused to let B take the car out of the shop until the bill was paid. B gave the repair man a check for $150, and took the car out, drove it around the corner and telephoned to the bank to stop payment on the check. Is this larceny?

A. Yes. The repairman had lien on the car until his price was paid. B paid with a check for the money and then deliberately stopped payment thereon. In this, he shows his intent to defraud. In prosecuting for a case of this kind, it would be necessary for the repairman to demand payment of the check in writing and if after 2 days B refused to pay it, it would be prima facie evidence of the larceny of the money.

235.

Q. Jones is employed by a large manufacturing firm whose employees have gone on a strike. Smith, one of the striking employees, approaches Jones and tell him if he does not stop working, he, Smith, will have him ostracized and thrown out of an organization which they both belong to. What offense, if any, has Smith committed?

A. He is guilty of intimidating a workman. By intimidation he did seek to prevent one J. Jones, from continuing in the employ of the C. D. Company. Penalty - $100 fine. 149 - 19.

236.

Q. How may Kosher meat be sold lawfully on Sunday?

A. It may be sold by any person, who according to his religious belief, observes Saturday as the Sabbath by closing his place of business during the day until 6.00 P.M.; he may keep open and sell such meat between the hours of 6.00 A.M. and 10.00 A.M. on the Lord's Day.

237.

Q. F owns a large parcel of land on which is a pond. W, without lawful right, went to the pond and cut and carried away a wagon load of ice when no one was present. What crime for W?

A. He is guilty of no crime unless the property is posted against trespassing or the pond is used for the express purpose of taking ice for merchandise, and then only if it injured or marred the value of the remaining ice. 266 - 106. In this case, there is no larceny unless the ice was already cut preparatory to storing it, before W took the ice.

238.

Q. At what age must a boy and girl be before they may legally engage in street trading, and who grants licenses for this purpose?

A. Boys between 12 and 16 licensed by the School Committee.

Boys between 16 and 21 licensed by the mayor and city council.

Girls under 18 must not engage in street trading.

Girls between 18 and 21 licensed by the mayor and city council.

Boys 16 to 21 and girls 18 to 21 who peddle novelties, small wares, etc., must be licensed by the Director of Standards, State House.

239.

Q. (a) Define "mala in se". (b) Define "mala prohibita".

A. (a) An offense which from its own nature is essentially wrong, irrespective of the statutes. Crimes where the state of mind or intent of the person committing them is essential to the crime. Larceny is a crime within the meaning of malum in se, because intent is a necessary element in this crime.

(b) An offense not such of itself, but because it is prohibited by law, and it appears by law that intent shall not be a necessary element. Unlawfully selling intoxicating liquor is an offense whether he intended to sell it illegally or made a mistake in so selling it. He must be right in selling it.

240.

Q. How may a constructive breaking and entering a dwelling house with intent to commit a felony be committed? Name three ways.

A. An entrance gained in a dwelling house with intent to commit a felony by fraud or deceit or false pretences; by intimidation; by conspiracy with one of the servants or other inmate who opens the door for a confederate, are examples of constructive breaking and entering.

241.

Q. John Thompson lodges a complaint on Sunday against William Brown for assault and battery. On Monday, he returns and wants to withdraw the complaint, stating that the assailant is his own cousin and that the injury is not serious. (a) What action would you take, as a lieutenant at the desk? (b) Would your action be any different if Brown had already been arrested?

A. (a) In this case I would take no action. The prosecution of Brown rests with Thompson, no arrest having been made and the assault not having been witnessed by an officer.

(b) Yes, I would inform Thompson that he must appear in court and state to the court that he acknowledges satisfaction and does not wish to prosecute further. The court, in its discretion, would discharge the defendant if satisfied that a simple assault and battery had been committed and not with felonious intent, or upon an officer or justice.

242.

Q. What action would you, as a police lieutenant, take in the following cases:

(a) Patrolman Jones brings in a man whom, he says, he knows to be a common gambler and whom he has just seen leaving a suspected gambling house which Patrolman Jones had been ordered to watch carefully. When Jones questioned the man, the latter told him with an oath to mind his own business.

(b) Patrolman Smith brings in a man named John V. Brown stating that he read in the morning newspapers that Brown was mentioned in connection with a fraudulent scheme for selling oil stocks, but could not be found. On his way to the station house he met Brown obviously hurrying to catch the 9.00 A.M. train for Albany.

A. (a) There is no right for the patrolman to arrest the man without a warrant for being a common gambler. If this was the charge, I would refuse to book the prisoner and instruct the patrolman when to make arrests without a warrant. If he charged him with "profanity" and the oath amounted to this offense, I would book him and charge him with "profanity".

(b) In this case, the officer is justified in arresting Brown on "Suspicion of larceny". Information published in a newspaper is enough to justify an arrest on suspicion. In this case the sale of oil stocks is ony a misdemeanor, but if he obtained money for the sale of such stocks through fraud, it would be a larceny and enough to justify the arrest on suspicion of this charge. I would book him and have the officer further investigate the case. If Brown was proven innocent, I would release him provided he signed the necessary waiver. If he was guilty of larceny or any other offense for which he could be arrested without a warrant, I would book him on that charge. If he refused to sign the waiver in event of his innocence I would have the officer make a complaint against him in court of larceny, and if the warrant was refused, I would release him.

243.

Q. A Company of Canadian Militia is contemplating a visit to Boston as guests of a company of militia here, and they desire to parade in Boston with firearms. How may they legally do so?

A. When their admission has been consented to by the United States Government and by consent of the Governor of Massachusetts.

244.

Q. By whom and under what circumstances, if any, may narcotic drugs be publicly advertised for sale legally?

A. Wholesale druggists and manufacturing pharmacists may advertise narcotic drugs for sale in journals intended for circulation among the medical profession and drug trade generally.

245.

Q. While performing duty as a sergeant, you were informed by a young lady that just around the corner is a man dispensing a white substance which looks like a drug, and upon each delivery the man is receiving money. You approach the man, who runs away, and, in doing so, drops a package which you are convinced contains a narcotic drug. You give chase to the man, overtaking him, and are about to place him under arrest, when he demands to see your warrant. You have no warrant, nor is there one in existence. He warns you that if you arrest him, he will hold you responsible. Under these circumstances, would you arrest the man? If so, why? If you state you would arrest him, with what would you charge him?

A. If possible, I would take the name and address of the informant for the purpose of having her as a witness, if necessary. Would procure the package I saw him throw to the ground. I would place him under arrest on suspicion of "Unlawfully selling narcotic drugs" or "having in his possession with intent to sell a certain narcotic drug". I would have the substance analyzed and if it proved to be a narcotic drug, by the certificate of analysis, I would charge him in court with "unlawful possession of a narcotic drug with intent to sell the same".

246.

Q. As sergeant you are given a search warrant to search a certain dwelling house for stolen property consisting of jewelry; with another officer you make and complete your search and find no jewelry. You do, however, find a considerable amount of a certain narcotic drug. Outline your course of action, omitting nothing.

A. I would investigate for the purpose of determining who owned or occupied that particular part of the house where the narcotic drug was found. I would leave the patrolman in charge of the drug and I would immediately apply to the courts for a warrant to search such premises for the narcotic drugs and arrest all persons present. I would charge the person who owned the drug with unlawful possession of such drug provided he had no legal right to have it, and if circumstances warranted it, with "keeping and maintaining a drug nuisance". Those simply present, I would charge with "being present where a narcotic drug was found". I would make a return on such warrant of the drugs seized and the persons arrested. (Make a return on the other warrant also.)

247.

Q. Having arrested a woman you have caught in the act of illegally selling narcotic drugs, and having taken her to the station house, and having reason to believe she has more of the drug concealed on her person, state under what circumstances, if any, and by whom, the woman may be searched. You are the sergeant in charge.

A. Have her searched by the matron, a police woman, or any other respectable woman, for the drugs. If none of the above were available, and it was necessary to search her right away to prevent the destruction of such drugs, I would have any officer search her in my presence, with all possible regard to decency, and make a written report to the superintendent of such search and the reason therefor. Otherwise, I would send her to the City Prison or to a station where there is a matron.

248.

Q. Define the following terms: (a) Autopsy. (b) Inquest. (c) Addict. (d) Narcotic Drug. (e) Physician.

A. (a) An autopsy is the dissection of a human body in order to determine the cause of death.

(b) A judicial inquiry to determine the cause of the sudden, violent, mysterious, or suspicious death of a person is what is meant by an inquest.

(c) An addict is a person who is afflicted with an abnormal craving for any particular thing, usually in a bad sense such as drugs, liquor, etc. It is generally used in designating those persons addicted to the use of narcotic drugs.

(d) Narcotic drug is a substance used for the relief of pain, and when taken in sufficiently large quantities, will produce sleep, stupor, coma, or even death. As defined in the Mass. G.L. opium, morphine, heroin, codeine, cocaine, cannabis indica or any salt, compound, derivative or preparation thereof is narcotic drug.

(e) A person duly registered and authorized to practice medicine.

249.

Q. Which of the following named acts are legal and which are illegal?

(a) A duly registered physician delivers a legal prescription for narcotic drugs to a known drug addict.

(b) A duly registered veterinary surgeon has narcotic drugs in his possession.

(c) A duly registered veterinary delivers a prescription for narcotic drugs to a person who requires the drug for the proper treatment of a disease from which he is a sufferer.

A. (a) Illegal.

(b) Legal.

(c) A veterinary surgeon shall not prescribe a narcotic drug for a human being nor for an animal so it could be used subcutaneously.

250.

Q. A man approaches you, a police sergeant, and tells you the following story. He has just left a dwelling house in your district where during his visit seven or eight persons called and each was given a certain quantity of narcotic drugs upon the payment of a sum of money. Outline your procedure under these circumstances. In case you had occasion to make complaints in court, state against whom you would make the complaints and the offenses you would charge against the defendant and defendants.

A. Take the name and address of the informant for use as a witness. Detail two officers in plain clothes to watch the premises for the purpose of ascertaining the type of persons resorting to this place. In the meantime, I would try to procure or have procured a purchase of the drug alleged to be sold there. If successful, I would have it analyzed for the purpose of offering it in evidence. I would then, or as soon as I had the necessary evidence, apply to the court for a search warrant for narcotic drugs for these premises. I would search the premises and place under arrest all persons found in illegal possession of a narcotic drug and those present where such drugs were found. I would complain of the proprietor in court for "keeping and maintaining a drug nuisance"; those in possession of the drugs for "unlawful possession of a narcotic drug" and those present for "being present where narcotic drugs were found". If I was successful in making a purchase of any of these drugs I would complain of the person who sold it to me or my agent for "unlawfully selling a narcotic drug".

251.

Q. A benevolent citizen comes to you at Headquarters and informs you that a destitute family consisting of a man, his wife, and a seemingly tubercular daughter about 18 years of age, are living at 12 Prescott Street. Upon investigation of the case, you discover that all three members of this family are drug addicts. What course of action would you follow?

A. I would take the name and address of the informant. If I found that they had narcotics unlawfully in their possession, I would arrest and complain of them for the same; otherwise, I would take their names and addresses and reduce all my information to writing and make a complaint to the court relative to their addiction, with the purpose of having them committed to a suitable institution for the care of persons addicted to narcotic drugs. 1922 - 535 - 4.

252.

Q. When the identity of a person under arrest is in question, state the means and methods in determining his identity, assuming that (a) you think he has been arrested before in another city, (b) you believe that twelve years before his present arrest, he was arrested and convicted in your city for having committed a felony.

A. (a) I would have his photograph, finger prints and general description taken and forwarded to that city for the purpose of determining his identity. (b) I would consult the records of the police department and the courts, also records at the State House and would feel sure, if he was arrested in this city or state, that I could locate his record in this manner.

253.

Q. What facts should you be prepared to prove in court in order to convict a registered druggist or pharmacist in each of the following cases:

(a) Illegal possession of narcotic drugs

(b) Illegally filling a prescription for narcotic drugs legally made out by a registered physician

(c) Illegally failing to keep on file a prescription for narcotic drugs legally made out by a registered physician, and legally filled by said druggist or pharmacist.

A. (a) I would have to show that he had narcotic drugs in his possession not procured on government order forms issued by the Collector of Internal Revenue to him through which law he is required to purchase his narcotic supplies.

(b) I would have to show that he filled the prescription not acting in good faith, for instance: Filling it the second time; putting in more drugs than the prescription called for; knowingly filling it for a drug addict, etc.

(c) He is required to keep all narcotic prescriptions on file for a period of not less than two years from the date of filling, accessible at all times to officers and others authorized to inspect them.

254.

Q. Suppose that a certain druggist is manufacturing a patent cough medicine that contains about two grains of cocaine for the cure of coughs, colds, and catarrh. Would this be a violation of the law?

A. Yes. No person shall manufacture any so called catarrh cures, or any patent or proprietory medicine or preparation containing cocaine or any of its salts, or alpha beta eucaine or any of their salts, or any synthetic substitute for them. C. 94 - 198 - 216.

255.

Q. A message is received from Albany, N.Y., at Headquarters to the effect that Richard Doe, who is wanted by the Boston police for murder, is in the custody of the Albany police. Describe in order the various steps that must be taken to bring Doe to Boston.

A. Go to the District Attorney and find out if he will send for Doe. Have him indicted and an indictment warrant issued if not already so indicted. Make a return on the warrant "having made diligent search for the within named Richard Doe and not finding him within my precinct, therefore, I return it without proper service". If I am the person to be the agent in bringing Doe back, I would make sure that the proper papers were made out in the District Attorney's office; i.e., A copy of the indictment; a copy of the warrant; a certificate from the chief justice of the Superior Court; a certificate from the clerk of the Superior Court; an affidavit of facts and circumstances showing the arrest of Doe in Albany, N.Y. (telegram) and finally a certificate from the District Attorney requesting the governor for a requisition of the within named Doe from the Governor of New York. All these papers must be in duplicate original papers, or certified copies thereof.

I would then go to the Secretary of the State's office who would have my papers verified by the Attorney General, and if they were regular, he would then present them to the Governor for his approval. If the Governor was satisfied to make the requisition on the Governor of New York, and he issued his warrant naming me as his agent, I would then go to Albany, N.Y., present my papers to the Governor of New York, and if he granted the requisition, I would have Richard Doe brought before the Superior Court for the City of Albany and have him turned over to me by order of said Court. Next I would bring him back to Boston, before the Superior Court, if in session, or the Charles Street Jail if it was not in session, make my return on the warrant, and give it to the clerk of said court. I would make a return on the Governor's warrant and return it to the Secretary of State.

256.

Q. Jones, an officer on street duty, arrests Thomas Robinson for drunkenness. When Robinson is brought to the station house, Clark, an officer whose "house day" is next day, sees Robinson and notices his condition. As Jones will have his day off on the following day, he asks Clark to appear in court in his place and complain against Robinson. Clark does not hear Jones's request. Hearing no objection and thinking that Clark will do as requested, Jones does not appear in court the next morning to complain against Robinson up to the time of the court's adjournment. (a) What is the liability of Jones, the arresting officer? (b) What must be the action of the court? (c) What would be your course of action were you on duty as Lieutenant at the time Robinson was booked at the station house?

A. (a) Jones is liable civilly for the arrest of Robinson, and he would at least be liable to his superior officers to censure for his careless handling of this case, if not liable before a trial board on charges for neglect of duty. He should have been absolutely sure Clark heard him and was willing to take the prisoner to court, and take nothing for granted.

(b) The court must discharge Robinson for want of prosecution.

(c) I would book the prisoner in the regular manner, have him searched, assigned to a cell, and look for visible injuries. If I heard Jones making the request, I would have made sure that Clark understood it and was willing to so appear in court, but the prisoner would be booked to Jones just the same.

257.

Q. A patrolman brings to headquarters a man arrested for drunkenness. At the time of the arrest there was found on his person a quantity of hypodermic needles. What information would you request from the arrested man in order to conduct an investigation as to the source of supply of these hypodermic needles and outline the investigation you would conduct after receiving such information. What, if any, complaint in addition to drunkenness would you make or cause to be made against the arrested man?

A. I would question the man when he was sober enough, as to how he came in possession of the needles. If he was a physician, dentist, veterinarian registered in Massachusetts or any other state, a registered embalmer of Massachusetts, a surgical interne of Massachusetts, dealer in embalming supplies, or other person legally authorized, or a holder of a permit issued by a physician, or a nurse acting under orders of a physician, it would be no crime to have possession of such needles. If he was not one of such persons, I would try to learn where he bought or received the needles and make a complaint against such persons for the unlawful sale, delivery, or exchange of such needles, after I had examined their books to find out if they had made a proper sale, etc.

I would book the prisoner for drunkenness, and in addition, complain of him for the unlawful possession of hypodermic needles, provided he had them unlawfully. I would make a diligent search of his person for narcotic drugs, and if they were found, put him in for unlawful possession of narcotic drugs. If circumstances showed that he was buying narcotic drugs unlawfully, I would apply for a search warrant to search for narcotic drugs at the premises where they are being sold, delivered, or exchanged, etc., seize the drugs and arrest all persons present. Complain of the proprietor for keeping a drug nuisance and the others for being present where narcotic drugs were found.

258.

Q. A patrolman on your division reports to you a burglary committed on his route. He reports further that he has arrested a man named Black who aided the burglar to escape while he (the officer) was in pursuit of the burglar. While Black is awaiting trial, the burglar dies without ever having been arrested or tried for the burglary. Assuming that you have sufficient evidence to prove that Black did aid the burglar to escape, of what crime if any can Black be tried and convicted? Give reasons for your answer.

A. Black can be convicted, provided I can prove the burglary and the escaped person did it, of "accessory after the fact" to the burglary unless he is related to the burglar as brother, father, grand-father, or child either by affinity, consanguinity, or adoption. Chap. 274 - section 5 provides that "an accessory to a felony after the fact may be indicted, convicted, and punished, whether the principal felon has or has not been previously convicted, or is not amenable to justice in either county where the crime was committed or where he became accessory."

259.

Q. A tried to steal B's watch and broke the watch chain during his attempted theft. C tried to rescue A from the patrolman who was arresting him. A and C are brought to the station by the patrolman. Both deny the charges brought against them. (a) What action would you take as a desk officer? (b) What charges, if any, should be brought against them?

A. (a) I would book both prisoners, have them searched, and have them place in cells, unless properly bailed. (b) A should be charged with "Attempt at larceny from the person", and C should be charged with "Attempt to rescue a prisoner under arrest". C could be an "Accessory after the fact" to A's crime if he knew what A's crime was.

260.

Q. While a patrolman is doing duty on his route about 10.30 P.M., he is approached by a man who claims to be a constable from a different county in the State, and who says that he wants to arrest John Jones for a violation of the Mann Act. He states positively that Jones has just entered a certain house and asks for the patrolman to assist him in making an arrest. State in detail what the patrolman should do.

A. I would instruct the patrolman to ask the constable for his credentials, and if he was authorized to execute criminal process, if he had a warrant from the U.S. courts addressed to him as a constable or officer authorized to serve criminal progress and if such warrant was in full force and effect.

If he was fully satisfied as to these facts I would instruct him to accompany the constable and assist in the arrest, but let the constable do the official acts, in serving the warrant.

If he could not satisfy the officer that he was a constable or if he had no warrant issued by the U.S. authorities, I would instruct the officer to take no part in the affair.

261.

Q. Explain fully the police action which should be taken in case of complaints at the station house as follows:

(a) A man from Denver says that $2000 has just been obtained from him fraudulently by two men who have disappeared.

(b) A mother of an illegitimate child wants the father arrested.

(c) A wife wants to compel her husband to support her.

(d) A man brings in a two weeks old baby found under his porch.

A. (a) I would take the name of the man, his address in Boston, and find out, if he intends to return to Denver, his address in that city. I would find out where, when and in what manner his money was taken from him, a description of the two men who did the act and where last seen. I would immediately notify headquarters of the whole transaction, with a description of the men and any other information which would help to locate and arrest them. I would have the special officers take charge of the case and apply for warrants for the arrest of the suspected parties. Enter all the facts in the journal.

(b) I would have the case investigaged to find out if she was the mother of the child as alleged, get the birth certificate. If she was not already the mother of the child to have her examined by a physician and get a certificate from him that she is in the condition she claims to be in; get the name and address of both her and the father of the child, and have her meet an officer in court to apply for a "bastardy" warrant. If such warrant was granted, to arrest the person named and have him in court to answer to the charge. Enter all facts in journal.

(c) Find out if they are legally married, not divorced; if he has failed to provide support or adequate support, and if he is in a position to earn, earns, or has money enough to support his wife. Then have her meet an officer in court to apply for a warrant for non-support. Get names of both husband and wife. Enter in journal.

(d) Take the name and address of the man who found the child, and the circumstances of his finding it. Get in touch with headquarters to find out if such child has been reported missing. Notify all officers at roll call or by telephone of the finding of the child, and have them be observant in finding out anyone who might have abandoned such child. Send an officer to the place where it was found to make inquiries, as to who was seen in the vicinity with a child, who might have placed such child there and any other information that would help find the person who deserted the child and would definitely place the father and mother of the child. After a reasonable time, I would have the child taken to the Chardon St. Home for care, or to the City Hospital if necessary. Enter all the facts, including a description of the child in the journal. Apply for warrants and arrest guilty parties.

262.

Q. (a) What police officers are empowered to accept bail during the night time? (b) Name 3 crimes for which bail may be accepted by such officers and 3 for which bail may not be accepted. (c) Describe the manner in which bail is taken by such officers and the different kinds of bail that may be accepted.

A. (a) No police officer is empowered to accept bail in Boston.

(b) There are no crimes for which a police officer can bail.

(c) Police officers cannot accept any kind of bail in Boston.

263.

Q. (a) What does the law require a person to do before he can engage in the business of pawnbroker? (b) State three different provisions of the statutes regulating the conduct of such business.

A. (a) He must apply to the Police Commissioner for a license; his application and suitability to be reported upon by the Chief Inspector and Division Commander. If he is granted a license, it is only good on the premises designated in the license.

(b) He shall deliver to the person pawning any article, a memorandum or note signed by him containing the time of making such loan, a description of the article, the amount of money loaned thereon, the day and hour of pawning, the rate of interest, the number of the article, and the name and address of the person pawning it. The pawnbroker must make a daily report before 10.00 A.M. to the captain of the division on which his shop or store is located, listing all articles pawned for the preceding 24 hours and the same applies if he has received no goods in pawn. His report must go in just the same.

He shall keep all articles pawned at least 4 months unless they are perishable and under those conditions, 1 month. He shall allow police officers to inspect his books and methods of doing business. He shall not do business with a minor.

264.

Q. (a) What qualifications must an applicant for a pedlar's license produce before he can secure such license?

(b) What restrictions are placed upon a pedlar by ordinance, law, rules and regulations.

A. (a) He must be a citizen of the U.S. or have declared his intention to become such, be of good moral character and integrity.

(b) He must not engage in such business until he has been licensed by the Director of Standards, or if he peddles fruit, vegetables, or fish, a license from the Health Commissioner. He must not sell furs, jewelry, wines, or spiritous liquors; or miniature flags or small artificial flowers except on a special license.

He must make certain that all weights or measures used by him have been inspected by the sealer of weights and measures, and that he has received a certificate to that effect.

He must not cry his wares to the disturbance of the peace of the neighborhood, or in the vicinity of churches or schools.

All receptacles used in the conveyance of fruit, fish, vegetables, butter, cheese, meats, etc., must be neat, clean and must not leak.

He may carry on his peddling in the business section only before 8.00 A.M. and after 6.00 P.M. In the "Restricted" area he may carry on his business at reasonable hours, but between 8.00 A.M. and 6.00 P.M. he may use horse drawn vehicles or trays, baskets, etc., not in the nature of stands carried by such pedlar.

All vehicles or receptacles used by him shall have in letters printed upon them not less than 2 inches in height, his name, the number given him by the Health Commissioner or Director of Standards.

He must endorse his name on such license, and show license on demand of a police officer or other authorized officer.

265.

Q. Suppose you are the first police officer to arrive at the scene of a violent death. What would you try to determine in regard to the death that would help you in your investigation of the affair?

A. First: Try to determine who he is; who was last with him; and in what manner did he meet his death.

Second: Did he destroy his own life?

Third: Was his death caused by an accident or was it caused by violence inflicted on him by another?

Fourth: If inflicted by another, who that person is and the motive for his crime.

Fifth: The best means to cause the arrest of such person.

266.

Q. What is the rule in regard to conduct, character, habits, and the performance of duty by police officers?

A. The police must be quiet, civil, orderly and moral in their conduct, character and habits. In the performance of their duties, they must be attentive and zealous, control their tempers and exercise the utmost patience and discretion. They must at all times refrain from harsh, violent, coarse, obscene and profane language; when asked a question they shall answer not in a short and careless manner, but with all possible courtesy and attention, at the same time avoiding as much as possible entering into unnecessary conversation. They shall, when in uniform, keep their numbers in sight and in a respectful manner give their names and numbers to all persons who inquire. Rule 30 - S 1.

267.

Q. An officer upon passing a house hears a disturbance and hears blows being struck. He enters through an unfastened door and everything is quiet. What would be his course of action?

A. An officer is justified in entering through an open door where he hears a noise amounting to a breach of the peace, and arrest anyone who commits an assault or an affray in his presence. In his presence means what he can see or what he can hear. If upon entering, all was quiet, but someone showed signs of being assaulted and this person named another person present as his assailant, I would arrest him without a warrant. If, however, no one showed signs of being assaulted, I would complain of all persons present of "disturbing the peace" provided the neighborhood was disturbed enough to complain of the noise, etc., and I would use some of the neighbors as witnesses.

268.

Q. A woman comes to you and says that she is the aunt of a boy 11 years of age whom she has with her. She says that the boy's father and stepmother put the boy out 8 days ago, and she has been supporting him since. What would be your course of action?

A. I would investigate the case by interviewing the father of the child to find out if what the woman has stated is true, and if so, I would complain of him in court for "neglecting to provide proper care and maintenance for his minor child" and also bring a complaint of "being a neglected child" against the boy. If the aunt was a proper person, I would let her take care of the child until the case came before the courts; otherwise, I would notify the Society for the Prevention of Cruelty to Children of the case, and let them take care of the child. In these cases, it is often better to refer the whole matter to said Society for investigation and let them handle the case.

269.

Q. Discuss the value of a good sergeant on patrol and what he should do to keep patrolmen on the alert.

A. The greatest asset a division or unit can have for the promotion of efficiency and discipline is a good sergeant. The quality of the work done by the sergeant on patrol is of great importance both to the department and himself. He is in close contact with the public and the patrolmen on his division. He is responsible for the conduct, instruction, appearance, good order, and discipline of the men on patrol. Through this, he has many opportunities for effective police work.

To keep patrolmen on the alert, the sergeant should be an example of alertness himself. Frequent visits made to the different posts to see that the officers are doing their duty and a word of praise when an officer does an efficient act is a good method of getting the men on their toes. He should explain the nature of the criminal acts that are likely to happen on each particular route and have the officers especially on the lookout for these particular acts. Where an officer is negligent or indifferent, especially after a warning, the sergeant should make a full report to his commanding officer of the whole affair, with a view to preferring charges against such officer, or for such other disciplinary action as he may care to take.

270.

Q. A and B steal goods to the value of $500 from a building and secrete them in a nearby building. D owns an automobile and was not present when the larceny was committed, but, knowing the goods were stolen, moves them to another place farther distant from the scene of the crime, for which A pays D $50. D is afterwards arrested and charged with larceny. Could he be convicted of this or any other offense? Give your reasons.

A. He could not be convicted of larceny because he did not steal them, nor was he present when they were taken. He could not be guilty of receiving stolen goods, because he did not have actual possession of them. He could be convicted of "being an accessory after the fact" because he rendered personal aid to the thief, knowing the goods to be stolen. If he simply carries goods from one place to another, he is simply an agent and not a receiver.

271.

Q. A police officer is justified in making an arrest, but he has no warrant at the time. To effect the arrest, he has to break through an outer door and an inner door. How does the circumstance that he does not have a warrant at the time affect the legality of his breaking down the doors and using necessary force? In your answer, treat the subject fully.

A. If a felony has been committed or a dangerous wound been given, he may break outer doors to search for and arrest the offender without a warrant. Or under the same circumstances, upon reasonable cause to believe a felony has been committed, he may do as above. He may in like manner break into a house to prevent the commission of a felony, where it is a matter of life and death. He may in a like manner, break open doors to arrest on fresh pursuit anyone who has committed a misdemeanor in his presence for which he has a right to arrest, or to arrest a prisoner on fresh pursuit who has been lawfully arrested and escaped. But in all these cases, it seems for him to be justified, the person sought must be actually in the house. He may break into a house where there is a disturbance amounting to a breach of the peace and arrest any person committing an assault or an affray in his presence. Inner doors make no difference; if he has a right to break outer doors, he is justified in breaking inner doors.

272.

Q. A man wearing the uniform of the U.S. Army is brought to the station upon the accusation of a citizen who claims that the prisoner is not an enlisted man. How would you deal with the case?

A. The citizen has no right to arrest the man, and I would not book him on this charge. I would take the citizen's name and address and also the name and address of the accused, get in touch with the Militia Authorities to find out if he was an enlisted man, and if not, whether or not they would prosecute him. Under G.L. chapter 33, section 50, it requires an officer or soldier to make a complaint under these charges. If he was soliciting alms or selling goods while in uniform and had no license to hawk and peddle or a permit from the Department of Public Welfare to collect alms, I would cause a complaint to be made against him for "Soliciting alms without a permit so to do" or "Hawking and peddling without a license" and in addition "Wearing the uniform of a U.S. soldier while soliciting alms or selling goods,"etc.

273.

Q. What would be your course of action in the following cases? (a) Two automobiles, one going 35 miles an hour and the other going 40 miles an hour, collide at the intersection of streets in the central part of the city. People in both cars are injured.

(b) A woman unconscious in the street from apparently no cause; what advice would you give the officer finding her?

(c) A man of foreign nationality has been assaulted and brought to the hospital in a dying condition. His assailant has been arrested. What course of action would you take? The dying man does not understand English.

A. (a) I would immediately take charge of the injured persons, sending them to the hospital and rendering first aid if necessary. Get a full description and pedigree of them and their addresses and make out an injured person's report. I would inquire of both drivers if they were properly licensed, and had their operator's license and registration with them. I would complain of both of them for "operating recklessly"; "operating so as to endanger the lives and safety of the public" and "failing to slow down when approaching an intersection of the way". This requires a report to the Registrar of Motor Vehicles made out by the police.

(b) Immediately send her to the hospital and render first aid if necessary. Try to learn who she is at the hospital from letters or other means of identification on her person, or by asking her when she regains consciousness. Make inquiries in the vicinity where she was found as to whom she was with, where she came from, and what caused her condition, and take action accordingly. After the officer had carried out these instructions, have him make out a complete report of the whole affair. I would enter such report in the journal and if she was still unknown, immediately notify headquarters of her condition (especially if she were on the danger list), her description, and make all necessary reports. I would also notify all men at roll calls or when they telephoned in of her condition, her description, etc., with instructions to make inquiries to ascertain who she might be and any other facts of importance.

(c) I would immediately get a court interpreter if possible, or an intelligent citizen who understands the foreign language spoken by the assaulted man, to accompany me to the hospital. I would take the accused with me. I would have the interpreter instruct the injured party who we were and our mission there. I would have the doctor tell the injured party that he was about to die and that there was no hope of recovery (with the aid of the interpreter). I would have the interpreter ask the injured person if he believed he was about to die, and if he thought he had any chance of recovery. If he thought he was about to die, I would ask him if he was willing to make a true statement of how he obtained his injury. I would take down all this conversation in writing, and his story as he told it. I would then ask him if he knew the accused, and what part he played in the assault (through the medium of the interpreter). If possible, I would have the whole statement written in the foreign language which the man spoke, and let the injured party read it and then sign it. Get statement from accused and investigate the same.

274.

Q. Suppose a crime were committed 20 years ago. What modern methods can be used to discover and bring the criminal to justice?

A. Use the Bertillon System, finger prints, handwriting identification, photography, modus operandi, micro-analysis, and the cooperation of all identification bureaus and their records.

275.

Q. As division commander what would you do under the following circumstances? (a) A stranger presents a letter from the Mayor's secretary asking permission to take an extract from the journal.

(b) A stranger presents an order from the Secretary of the Police Commissioner authorizing him to visit a cell and talk privately with a prisoner. Give reasons for any action you would take in each case.

A. (a) The stranger with the letter from the Mayor's Secretary should be denied permission to take an extract from the journal. The Mayor's Secretary has no official connection with the police department, and such permission could only be given by the Police Commissioner, Acting Police Commissioner, or the Superintendent. In accident cases the Inspector of Claims has, as representative of the Superintendent, power to issue such an order.

(b) No person except the Commissioner, Acting Commissioner, Superintendent, Deputy Superintendent, or Chief Inspector, or a person authorized by them, shall visit or converse with a prisoner in a station house or headquarters, except in the presence of the officer in charge or his assistant. The secretary, being a direct representative of the Commissioner and authorized to issue orders in his name, could issue such permission, and it should be obeyed by the officer in charge of the station. I would hold the order for future reference in the case.

276.

Q. State what captains should require patrolmen to do in reference to all street accidents that come under their notice.

A. All patrolmen should be required to make a report of all accidents that happen during their tour of duty, or whether on duty or not if one comes to their notice, as soon as possible after its occurrence. The report should contain the following information: Date, police division, time, place, names and addresses of persons injured; if unknown, give accurate description of person and clothing. Names and addresses of witnesses of the accident, name and number on wagon, car or automobile (licenses, etc.) if any; disposition of the injured party, whether sent to a hospital or not should also be included in the report. If at night, note the position of street lights, whether or not they were lit at the time of the accident.

If the accident was caused by a defect in the street, two witnesses must be had to view the defect, especially if snow and ice are on the sidewalk. Officer in charge should notify headquarters at once. If street has been opened, state by whom, number of the permit, and date when permit was taken up. State whether the work was being done by the city (department), a contractor, etc. State the number and kind of barriers placed on the street and by whom placed. Has he made the place secure for public travel? Advise of nearest box, and the time when such box was pulled.

277.

Q. What is meant by cause and effect?

A. Cause and effect means "Reason and result". "Motive and action". Cause gives the effect; reason the result; and motive the action.

278.

Q. State fully the duties of a patrolman in the following case, giving your reasons. A patrolman on duty is notified by a citizen that burglars have entered a store a short distance from his post. The patrolman thereupon went with the citizen to investigate and found out that the citizen was mistaken.

A. The officer should be careful about losing his temper and abusing the citizen if he has made an honest mistake and was acting in good faith. As he left his post, he should immediately telephone the station and notify the officer in charge that he was leaving his post, the reason therefor, and the length of time he was away. He should make a memorandum in his pocket manual of the person, name and address, etc., who notified him of the supposed break, the location thereof and any other facts that would enable him to account for himself if he were questioned in the matter.

279.

Q. There are certain reasons or advantages in favor of keeping a captain for a long time in the same division, and certain reasons why he should be shifted about. State in your opinion: (a) the advantages, (b) the disadvantages.

A. (a) The captain with a stern intent to perform his duty without fear or favor will find many advantages in being allowed to remain for a long time in the same division. He will make friends with the business men and residents, and through such friendship be able to gain valuable information that would not be available to a stranger. The longer he remains on a division, the better he knows the men of his command, and the better able he will be to judge their weak and strong points. The police officer who knows that the captain knows of his particular failings is more likely to be on guard against yielding to such failings, while the captain will be able to put certain men on certain kinds of work for which they have shown particular adaptability. His knowledge of a neighborhood and of its occupants will enable him in case a crime is committed to form an opinion as to the circumstances under which it was committed, and thus aid him in his investigation.

(b) For a captain who is easy going, incompetent or negligent, there are many disadvantages in being allowed to remain long in the same precinct. Familiarity breeds comtempt, and a police captain is likely to regard with more and more leniency the violations of the law with which he comes in daily contact. Those who profit by the existence of such violations of the law also take advantage of them, and the longer the captain remains in a district, the better these will be known and the greater the opportunity of criminals to profit by them. The name and reputation which the captain has gained will also help to make or mar him. If he has the reputation of being easy-going, thieves and professional crooks will frequent his precinct, rather than that of a man with the opposite reputation, and he will have more difficulties with them, even though he tries to do his duty.

If the men under his command find that the captain is slow and negligent, they will follow his example and attend to their duties in a careless and slovenly manner.

It sometimes happens that a captain gets too friendly with the men interested in certain violations of the law and their political backers; he permits them to do favors for him and in this way gets in their power and finds it, after a time, difficult if not impossible to do his duty toward them and the form of lawlessness which they represent.

280.

Q. (a) What is the distinction, if any, between the terms "Officer of Rank" and "Superior Officer" in the Boston Police Department.

(b) What is the duty of a Division Commander in the case of the arrest of a person known or suspected of being an alien who has unlawfully entered into the United States?

A. (a) An officer of rank means an officer above the grade of patrolman. A superior officer means any officer above the grade of sergeant. Thus a sergeant is an officer of rank, but not a superior officer; and a lieutenant is a superior officer and an officer of rank also. Rule 4, section 1.

(b) I would immediately notify the Immigration Service Office. After investigation by the Immigration Authorities they would telegraph to Washington for a warrant for his arrest. When such warrant arrives, I would turn him over to the Immigration Officer for deportation, unless he was arrested for a felonious or other serious offense. If necessary, I would book him for "vagrancy" and have the officer continue the case until such time as the warrant can be procured from Washington by the Immigration Service Office, provided no other charge was to be preferred against him. Rule 44 - section 2.

281.

Q. Accompanied by officers attached to your division, and while you are making an inspection of a licensed lodging house, you find three females aged 15, 17, and 19 each in bed with a different grown man not her husband. State everything that should be done by you in this case from the time of your discoveries until the cases are brought to trial in court.

A. I would question each girl separately to find out if she had had unlawful intercourse with the man and whether it was voluntary or not. I would examine the register to find out if they had registered under false names. I would question the girls and officers whether the girls had hired a room in the house before. I would try to ascertain the exact relations between the men and the girls, whether they were prostitutes and the men deriving support from their earnings, etc.,; I would then arrest all that were guilty of any sexual crime, putting the following charges against them:

The man with the 15 year old girl - rape, and adultery if he were married. The girl - delinquent child, "fornication", and I would turn her over to her parents or the S.P.C. to C. or probation officer.

The man with the 17 year old girl, if she were of good character - seduction and fornication. If he was married, adultery. The girl - fornication, or if she were married, adultery, and adultery for the man also.

The man with the 19 year old girl - fornication for both, if she were single; adultery for the man if he were married and adultery for both if she were married, whether he was married or not.

I would put the following charges - abduction, rape, deriving support from a prostitute, etc., if conditions warranted it.

I would complain of the person who made false entries in the register for "violation of the true name law" and the proprietor for allowing his house to be used for immoral purposes, and make a report to be used against him before the licensing authorities for such conduct.

282.

Q. A resorts to trickery and fraud to accomplish the ruin of B. C, being unaware of A's acts and designs, adopts the same tactics for the same purpose. Later A and C are put on trial for conspiracy to ruin B. State whether A and C can be convicted of the crime of conspiracy and give reasons for your answer.

A. No. In conspiracy, there must be an agreement by two or more persons to accomplish some unlawful act. A and C did not agree to do this act; in fact they did not know that the other had this act in mind, so surely there was no agreement between them even though they did the act in a similar manner.

283.

Q. (a) Within what length of time should "arrest warrants" be returned to court if not served?

(b) Within what length of time should "search warrants" be returned to court if not served?

(c) For how long a time may a Division Commander detail one of his officers to special duty without the approval of the Superintendent?

A. (a) All arrest warrants, except indictment warrants, remaining unserved for 6 months shall be returned to the court, unless otherwise ordered by the Superintendent. Rule 44, sect.2.

(b) Search warrants for intoxicating liquors shall be returned if not served within seven days after issue to the court of issue. All other search warrants must be served at the first available opportunity, that is, just as soon as it is possible to serve them, and they must be immediately returned to the court of issue. Rule 44, sect. 2.

(c) Three days.

284.

Q. A operates a motor vehicle on a way outside of a thickly settled or business district, at a speed of 30 miles an hour, for a distance of a quarter of a mile.

B operates a motor vehicle inside a thickly settled or business district at a speed of 20 miles an hour for a distance of one-eighth of a mile.

Both A and B are summoned into court charged with operating a motor vehicle at a speed greater than was reasonable and proper. A admits in court that his speed was 30 miles an hour and B admits that his speed was 20 miles an hour. Neither of them offer any defense or explanation of their conduct. Can either of them, or both, be found guilty of the charge made against them? Give reasons for your answer.

A. Neither could be found guilty of these offenses unless their operating was manifestly unreasonable and improper, having no regard to traffic and the use of the way and the safety of the public.

Operating at a speed greater than 30 miles an hour outside the thickly settled district or greater than 20 miles per hour inside of the thickly settled district would be prima facie evidence of such violation, but neither of these exceeded these speeds. Chapter 90, section 17.

285.

Q. You receive an anonymous letter saying that officer Blank is being paid a weekly fee for not reporting the existence of a certain house on his route resorted to for the purpose of gambling. The house in question is not under suspicion. What action, if any, would you take? Give reasons for your answer.

A. An anonymous letter, even though it is not signed, is sometimes a source of information, because for obvious reasons the person is afraid to give his name. In this case, if the officer was one in whom I had confidence, I would show him the letter and ask him if such a thing was going on, or the reason for the letter. If I was suspicious of the officer, I would have one the sergeants make a quiet investigation as to the truth of the matter and get the necessary evidence to apply for a search warrant. If such conditions were going on with the knowledge of the officer, or through neglect on his part, I would prefer charges against him for neglect of duty and accepting a bribe, if we could get the evidence of such actions and also trace the writer of the letter if possible as a witness. On the other hand, many persons write letters complaining of the actions of police officers through spite, desire to do them an injury, etc., but in all these cases, unless the charges are obviously untrue, I would investigate them thoroughly and satisfy my mind that no such condition existed on my division.

286.

Q. A obtains goods to the value of $1500 from B by criminal false representations. A is arrested on a warrant charging the larceny of the goods, and he informs the arresting officer that he sold these goods to C, who has them stored in the basement of his shop. Outline the manner in which you would proceed, if at all, to recover these goods.

A. If the officer is absolutely sure that the goods were in C's cellar, he would be justified in seizing them, wherever they may be found, as long as the thief is arrested. 266 - 48. In this case, if the officer had time, it would be better to apply to the court for a search warrant for stolen goods, describing the goods to be seized, the building to be searched, and the owner if possible. Then go to the above named address and search for the goods, and if they are found, arrest the person in whose possession they are found and charge him with receiving stolen goods; make a return on the warrant and return it to the court. In the first case, if I seized the goods without a search warrant, I would annex a schedule of them to the return on the warrant and also arrest C for receiving stolen goods.

287.

Q. (a) B committed a robbery. A is able to say that D told him that he saw B do the act. What value is the statement of A in evidence?

(b) B's defense is an alibi. Sergeant Hughes is able to state that patrolman Monahan told him that he saw B in Boston on the night in question. Patrolman Monahan is now dead. What is the value of the sergeant's evidence? Reasons for your answer.

A. (a) This is hearsay evidence and inadmissible. D should be summoned into court to tell what he saw. This is against B's constitutional rights.

(b) The sergeant's testimony would be valueless in evidence because it is hearsay. The only way the patrolman's statement could be used is if he made an official report to the station of what he knew, such statement if entered in the journal could be subpoenaed into court and sworn to by someone who had knowledge that he made it. Decision by Supreme Court.

288.

Q. A watch was stolen from the home of John Y. Jones, who discovered the watch a few days later at a pawnshop. Mr. Jones consulted Brown, a patrolman, who advised him that the easiest way to recover his watch was to give the pawnbroker the price of the ticket - $8.00 - and $5.00 in additon - whereupon the pawnbroker would give him possession of the watch, as it was practically certain that the thief would never appear with the ticket. As Mr. Jones's chief concern was to recover the watch, he followed the patrolman's advice. Discuss Patrolman Brown's part in the matter.

A. The patrolman should have informed Mr. Jones that as the thief was not arrested, he had no authority to seize the stolen goods, and that as the pawnbroker was licensed to do this kind of business, there was nothing wrong in his receiving the goods in pawn, unless he knew they were stolen. He should advise him that the ownership of the goods was purely a civil matter, and that he could apply to the courts for a writ of replevin, or if the goods were valued at less than $20 suit for conversion against the pawnbroker, and the courts would decide who owned the goods, and return the watch to the rightful owner. If Jones did not want to do either of these things, he could tell him that his only remedy, failing to obtain peaceful possession, is to pay the pawnbroker the amount advanced by him. If Jones did not want to pay the pawnbroker, the officer should put a stop on the watch, until such time as the thief was arrested, or the courts ordered them returned (the goods) to the rightful owner.

The officer did wrong in advising Jones to pay the $5.00 in excess of the amount for which the watch was pawned, and also in not informing him of his rights, as to a writ of replevin or a suit for conversion, etc. Rule 62 (Appendix).

289.

Q. A travelling salesman comes to the station and complains that he checked his sample case at a checking room at a railroad station and that when he went back to claim the case, the clerk informed him that another man had claimed the case on a duplicate check. He insists that you arrest the clerk. What would be your procedure?

A. I would send a man with him to the station to question the clerk and get a good description of the person who passed the false check, and apply for a warrant for his arrest for larceny of the case and its contents. If he could gain evidence that the clerk had taken the case himself or in collusion with some other person, apply for a warrant for him and the other person. If the complainant had brought the case to the railroad station for checking for transportation, and the railroad company fails to redeliver such baggage, the company would be liable to a criminal complaint, and a fine of $10, under Chapter 260, section 194. I would tell the patrolman not to arrest the clerk unless he is sure that he was the one who stole the case, and then only if the case was valued at more than $100.

290.

Q. The Police Commissioner, anticipating trouble at a certain polling place on election day, details you personally to take charge of a squad of men there. A well-known citizen approaches you during the day and points out

Thomas Brown who just voted, declaring that he knows that Brown voted earlier in the day at another polling place. State in detail the course of action you would follow.

A. If the citizen was one in whom I had confidence, or I knew Brown and knew he had no right to vote at any other place than where he had just voted, I would investigate the matter and if satisfied that he had voted elsewhere as the citizen says, I would arrest him without a warrant. If I did not arrest him, I would detail one of the men to go to the other polling place to find out if he had voted there, and to gain any other information that would substantiate the charges of the citizen, with intention of applying to the courts for a summons or warrant for such violation. In either case, I would make a written report of the whole matter to my commanding officer. Instructions on Elections, page 19.

291.

Q. State in detail the evidence necessary to show the commission of each of the several following offenses: Murder, burglary, and embezzlement. How is intention manifested?

A. Murder: (1) That the person alleged to be killed is dead. (2) That he died as a result of an injury. (3) That the accused committed the act that caused the death. (4) That the death took place within a year and a day from the time of such injury. (5) That such killing was with malice aforethought, or extreme cruelty and atrocity, or in the commission of a felony.

Burglary: (1) The time (night time), (2) The place (dwelling house), (3) The manner (breaking and entering), (4) The intent (to commit a felony) (5) That the accused is the person who committed the crime.

Embezzlement: (1) That he had possession of the goods, (2) That he took the goods and converted them to his own use, (3) That he had the intent to deprive the owner permanently of his ownership in them.

Usually intent is manifested by the doing of the unlawful act, but in a felonious act there must be a vicious will or wicked intent to concur with the unlawful act. Generally speaking the law presumes that a person intends the natural and probable result of his unlawful acts. In burglary, for instance, the intent is manifested if he commits a felonious act after the breaking, otherwise it must be proven that he had such a felonious intent when he entered.

292.

Q. (a) What constitutes a criminal offense?

(b) What is the distinction between a principal and an accessory?

A. (a) A criminal offense is any act omitted or committed in violation of a public law either forbidding it or commanding it to be done.

(b) A principal is generally the one who commits the crime or is present aiding or abetting the principal felon.

An accessory is one who not being present, nor the chief actor in a felonious offense, but in some way concerned therein, either before or after the act committed.

Generally speaking, the principal is always present or constructively so at the scene of the crime.

The accessories are never present. They render aid, counsel, procure or hire persons to help, etc., either before or after the crime is committed.

293.

Q. A patrolman reports to you that he has reason to believe that a certain drug store in your division is owned by a man who is selling hypodermic syringes illegally. What facts would you seek in order to determine whether the patrolman's belief is well-founded, and what would you do in order to ascertain the facts?

A. I would seek to ascertain if he was a licensed druggist, and if he was selling such instruments to any person other than a registered pharmacist, physician, dentist, veterinarian, registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, nurse on the order of a physician or dentist, or the holder of a permit under section 209 A. I would examine the records that a licensed druggist is supposed to keep to see to whom he is selling such articles. If he was not licensed, or if he was selling such instruments without authority, or if he was not keeping proper records of such sales, I would complain of him in court for violation of the drug law relating to hypodermic syringes. Chapter 94, section 209 - 209 A.

294.

Q. Suppose that while off duty you made a tour of your division in plain clothes and saw one of your patrolmen enter a private house by the rear door and remain therein for one hour. State in detail what course of action you would take under these circumstances and what facts you would attempt to establish.

A. A police officer is required by the rules and regulations to telephone the station every time he leaves his route, the reason therefor, the time he was absent from his route, and the time he returns. He must do this before he leaves his route if possible, or in an emergency, just as soon as he returns to his route.

I would observe the officer to find out if he was living up to the rules on this subject, and ascertain what he stated he went in for, if he so reported. If he failed to make a report or telephone, I would make inquiries as to why he was in the building from the person in charge of said building, then ask the officer his version of the affair. If the officer's reason was a reasonable one or in the line of duty, I would call his attention to the rules and warn him to telephone the station when he leaves his route, but if he appears to have been violating the rules and regulations, I would prefer charges against him for such violation.

295.

Q. Discuss from a police viewpoint, the advantages and disadvantages of keeping policemen on permanent beats or routes, as compared with changing them every few months to different routes in different parts of your division.

A. The advantages in keeping a patrolman on the same beat lies in the fact that if he is a live officer, he will have a decided knowledge of all police conditions on his route, the different kinds of business on his route, who lives there, the streets, alleys, buildings, residences, what to look for, in fact everything that will help the efficiency of the force.

The disadvantages lie in the fact that officers remaining too long on certain beats get too familiar with the public, get careless in attending to police duties and often pass up opportunities to do good police work.

This, however, only applies to a few cases and, generally speaking, it is better for a good officer to be on a permanent beat. In changing officers around every few months, the only advantage would be for a new captain who did not know his men and wanted to find out who was best suited for a particular route, or where there was a falling down in discipline, or effective police work. In this case, the captain would be almost sure to settle down to the old procedure of having good men on steady routes at all times.

296.

Q. A duly licensed dealer in used or second hand automobiles buys a second hand machine from John Doe. What, if anything, is said dealer required by law to do before he can lawfully sell said second hand automobile?

A. He must send a daily report of all automobiles received by him, on special blanks for that purpose, to the Registrar of Motor Vehicles and also to the Police Commissioner. He must also keep said vehicles at least four days before he can sell such vehicle, unless he had a waiver from the Police Commissioner.

297.

Q. (a) What is meant by the caliber of a firearm?

(b) What is the purpose of the rifling found in modern firearms?

(c) How does the caliber and rifling of weapons sometimes play an important part in cases of homicide?

A. (a) Caliber generally refers to the size of the revolver or gun. Technically, it is the diameter of the barrel bore. It is also used to denote the size of a bullet or cartridge.

(b) Rifling is used to give the bullet that travels through the gun a rotating motion which helps keep the nose of the bullet travelling in the right direction, also to increase the speed and lessen the trajectory of the bullet.

(c) In a homicide case, the caliber of the bullet will determine the caliber of the weapon, and the rifling of a weapon will so mark a bullet fired through it that it can be readily compared and identified, if it was fired by the weapon in question; in other words, rifling will place marks on a bullet just as distinct as finger prints on a smooth surface, and which can as easily be identified.

298.

Q. You have arrested a man on a charge of larceny. His case, when he first appeared in your local court, was continued for one week. You know the defendant will take the witness stand and testify in his own behalf at the trial. You know that this same man has been convicted and sentenced in two other local courts and has served his sentence in each case. When he takes the witness stand and testifies in his own behalf, can the records of these former convictions be introduced against him, and what must be done in order that they may be introduced?

A. Yes, such convictions are admissible, provided: (a) That if the convictions were for misdemeanors, they would not be admissible if more than five years from the date of sentence had elapsed. (b) If it was for a felony punishable by fines or sentences to the House of Correction, jail, or reformatory, it would not be admissible if introduced after ten years had elapsed from the date of sentence. (c) Felonies upon which a State Prison sentence was imposed would not be admissible after ten years had elapsed from the expiration of the minimum sentence then imposed. In every instance of an admissible record, I would secure and have with me in court a certified copy of the conviction from the court where it took place, and if necessary the officers who made the arrests to identify the defendant.

When he takes the stand, he should be then asked, "Are you the John Smith who was arrested on such and such a date for such and such a crime?" etc., and put the records in evidence. If he denies being the man described, I would be prepared to introduce the officers who arrested him or other person to identify him.

299.

Q. What elements are necessary to make any operation a Gambling Operation?

A. (1) There must be an agreement and carrying out of a proposition between two or more persons.

(2) They must risk money or other valuables.

(3) There must be a contest or chance of some kind in the proposition where one must lose and the other gain. The element of chance rather than skill must be always present.

300.

Q. You as sergeant have been detailed in charge of a squad of six men to clear your district of a number of pickpockets who are known to be operating there. State in detail how you would handle this assignment.

A. I would get the men together and give them instructions as to how pickpockets work, show them the pictures and general descriptions of all known pickpockets likely to be working in Boston at this time. I would detail teams of two men each assign them to some particular spot where pickpockets make a habit of working. I would have a code of signals agreed upon with which they could communicate with each other or myself without talking to each other. Try to have them take up positions where they cannot be seen, but can observe any gathering that may take place, especially at railroad stations, elevated, and subway stations, etc. If they arrest any suspects, have them be sure and not let the suspects bluff them out of the arrest by appearances of prosperity, letters, and even the fact that others are willing to vouch for them, as this is a favorite trick of pickpockets. If they have complaints coming in, let them be sure to get a good description of the workers and the particular manner of operation. On arresting a pickpocket, be sure to have him identified by the injured person and get this person's story before witnesses, as he is apt to forget what he told when in court, if he is reached in the meantime.

301.

Q. While going home at 11.30 P.M. and not assigend to any duty, you stumble across the body of a dead man who obviously has been the victim of a murderous assault. Outline your course of procedure.

A. I would immediately take steps to guard the body until the arrival of the Medical Examiner, either by moving to a place out of the public view or putting some one on guard over it. I would observe the position of the body, with reference to a house, the sidewalk or other objects near the body. I would try to have the body identified, find out who committed the act causing the death, or who was last seen with him. I would immediately get in touch with the nearest police station notifying them of the death, his name and description, and the name and description of the person who killed him, if I had not already arrested him.

I would try to find the weapon used and carefully guard it, being especially careful to look for finger prints, etc. If there were any other clues, I would safely preserve them and use them to detect the guilty parties. I would try to get witnesses who saw the act committed, who knew who was last with him, or who knew of a motive for the killing, etc. I would enter in my pocket manual a drawing of the position of the body, with reference to other objects, a description of the weapon, position of the cartridges, empty shells, and empty chambers in a revolver if it was used, if a knife, whether or not there was blood on it, etc., names of witnesses and their stories. I would make a complete report of the whole matter to my commanding officer and from the information and the clues thus found, I would try to detect and arrest the guilty person, have the witnesses ready for the homicide squad or the District Attorney, be prepared to tell what I know of the case myself, and have all evidence or clues ready for inspection.

302

Q. As police captain how would you handle the investigation of the following: (a) A complaint is made that a certain poolroom is the resort of young pickpockets. (b) Complaint is made that a certain house designated as a sanitarium is actually being used for the performance of criminal operations, many of the women patients coming from other states.

A. (a) I would see if this place were properly licensed I would cause to be observed whether or not there were minors allowed to be in this place without written consent of their parents, whether or not there were known pickpockets hanging around or in the place, whether or not there was illegal gaming going on. If any of these things were true, I would cause the arrests of such pickpockets if possible, complain in court of the proprietor for allowing minors in his poolroom without written consent of their parents, and if necessary, get a search warrant for illegal gaming and at the proper time, raid the premises, arrest all persons gaming, all present, and put the additional charge of keeping a gambling nuisance against the proprietor. I would complain of him to the Licensing Board under such conditions to have his license revoked.

(b) I would make inquiries from the Department of Public Welfare to determine whether or not this hospital required a license and if so, was it properly licensed. I would get permission from the Police Commissioner to inspect the hospital.

In the meantime, I would cause to be observed just who was running the hospital, who the patients were, and if possible, get someone to admit that she had been operated upon in such hospital. I would send a woman police officer to the house with instructions to try to make an engagement for such an illegal operation. At an opportune time, if I were convinced that such conditions were true, I would apply for a search warrant for abortionist tools, and try to pull off my raid when one or more women would be present who had had such an operation performed upon them. I would question them as to their condition and who had performed the operation, etc. If I found any such women or had any woman who admitted that she was operated upon there, I would arrest the doctor, nurses, and proprietor or any one else anyway concerned therein, seize all abortionist tools, etc., and make full return on the warrant. I would charge the doctor with "abortion" and the others with being "accessories before or after the fact" as the case may be, and the proprietor in addition, "keeping a common nuisance".

303.

Q. Suppose you find one of your sergeants fails to keep his men up to the standard of efficiency that you require. How would you deal with him? Explain fully.

A. I would explain to the sergeant just what I wanted in the line of efficiency, where he was lax, and his duties as a sergeant in general. I would warn him that I expected full cooperation from him, and that if he failed, I would act accordingly. I would put the discipline, appearance, and general efficiency of his men squarely upon his shoulders, and if after this warning he failed to bring them up to the standards desired, I would complain of him before a trial board for inefficiency, incompetence, disobedience of orders, etc., as the case might require.

304.

Q. You receive information that anarchistic literature is being circulated in a certain portion of your city. You are assigned to the task of finding the source of supply of this literature and the place in which it is printed. You are instructed to bring the matter to the attention of the court. Outline the investigation you would conduct in this case. Assuming you obtain sufficient information on which to base a complaint, state what charges you would make against the defendant.

A. I would visit the vicinity where the literature was being circulated, try to locate some person passing it out, read it to decide whether or not it advocates, advises, or counsels the overthrow of the Government by force or violence, or an assault on any public official, or malicious destruction of property. If it were of a criminal nature, I would arrest the person so distributing the literature, question him as to where it was printed, and who was behind such printing. I would look on the pamphlet, flier, etc., to see if the printer had put his name and place of business on it. If I located the printer, the persons who caused the literature to be printed or promulgated, and any persons distributing such literature. I would arrest them without a warrant and complain of them in court for "Promoting Anarchy" by promulgating, distributing, exhibiting such literature. 264 - 11.

305.

Q. There is a strike in progress, and a meeting of the strikers has been called, to be held in a hall accommodating about 500 persons. Is a permit necessary, and who would grant it?

A. In Boston all halls are licensed by the Mayor for 400 or more persons. It is not necessary to have a permit for such a meeting if the hall is licensed.

306.

Q. Name five purposes or functions of an efficient police force.

A. (1) To prevent crime. (2) To arrest criminals if a crime has been committed. (3) To preserve the public peace. (4) To protect life and property. (5) To enforce all laws, by-laws, and city ordinances.

307.

Q. After the fire lines have been established at a big conflagration, certain persons seek admittance within them. Name at least five classes of persons whom you might properly admit.

A. Members of the police department, fire department, protective department, members of emergency companies of Public Utility Corporations, ambulances, the Mayor and members of the City Council wearing their badges exposed, and other persons wearing exposed badges, or permits issued for the current year by the fire department. When needed, clergymen, doctors, and nurses. Rule 46 - 4.

308.

Q. (a) Suppose you saw a man deliberately spit upon the sidewalk. What would be your procedure?

(b) Would your answer be any different if he spit upon the floor of a tenement house?

(c) On the floor of the smoking car of an Elevated train?

A. (a) If the man was unknown to me, I would arrest him without a warrant. If he were known to me I could take his name and address and apply for a summons for him.

(b) If the tenement house contained five or more families, my procedure would be the same as above, otherwise it is no crime.

(c) This would be no crime under the law. 270 - 14-15.

309.

Q. What facts must be established in court to make the evidence of a child witness admissible in court?

A. The general test is whether or not the child has received spiritual training, or is mentally developed enough so that it believes in God and punishment for sins. The officer should be sure at the time of testifying that the child can meet the above test, otherwise it is his duty to see that the child has had proper instruction from a priest or minister of the child's religious faith.

310.

Q. Under what circumstances and conditions may a commanding officer release or discharge prisoners arrested and brought in by a patrolman? Explain fully.

A. (1) He may release a person who is lawfully bailed.

(2) He may release persons arrested for drunkenness on the order of the probation officer.

(3) He may release certain juveniles to their parents on their written promise to have them in court on the date stated.

(4) He may release a person arrested on the order of a presiding officer at an election, who ordered his arrest.

(5) He may release a person who was arrested for unlawfully throwing rubbish in the street if the person was unknown to the officer, but who has made himself known at the station house.

(6) He may release a person arrested on suspicion of having committed a felony, who is afterwards shown to be innocent, upon his voluntarily signing a so-called waiver.

311.

Q. Y bought goods from X on the first of May, 1931. On June 1, 1931, Y pays X with a check for $300 on the C bank. The check came back (no funds). What would be your procedure?

A. No crime. There is no larceny because Y received nothing for the check; no false pretences because there was no agreement in writing of his ability to pay. Y still owes X for the goods. It is a civil matter and I would so explain it to X.

312.

Q. A and B held up C with a loaded revolver, and demanded his money. C said "All I have is 25¢". A then said "Never mind. Don't take it," to B, and then turned to go away. B then took the money. On the trial against A and B for the robbery, C was unable to identify the one who actually took the money. Could they be convicted of the robbery or any other offense? Why?

A. A was not guilty of the robbery, having withdrawn before the crime was completed, and B knew this. B was guilty of the robbery, but C not being able to identify him, or which one did the act, B would have to be discharged also. But both could be convicted of assault with a revolver with intent to rob. Rex. vs. Richardson, Leach (4th Ed.) 387.

313.

Q. An officer arrests A upon suspicion a few hours after a robbery occurred, and upon searching him at the station, the officer finds an unmailed letter written by A, addressed to B, asking him to meet him at a place near where the robbery occurred. (a) Discuss the value of this letter in evidence against A. (b) Suppose the letter was lost or missing at the trial, could its contents be used in evidence against A? If so, how could it be proved?

A. (a) The letter being in A's handwriting is evidence of an intent or purpose on A's part to be at a place near where the robbery occurred. It could be used only circumstantially, after other evidence tending to prove that A had committed the robbery, had been introduced. Standing alone without other evidence, the letter would be valueless.

(b) If the letter is missing at the trial, its contents could be proved by some person who read and remembered its contents, and who knew that the letter was in A's handwriting. A could also be asked if he had written such a letter, and if he admitted writing it, its contents could be introduced.

314.

Q. What record must be kept by a proprietor or person in control of an establishment leasing motor vehicles for compensation?

A. When the motor vehicle is leased upon a mileage basis, a record must be kept containing the registration number, the name of the maker of the motor vehicle so leased, the time the vehicle left and the time it returned to the establishment, the signature in full of the lessee in his own handwriting, his residence and the number of his operator's license. 90 - 32 b. Open to inspection by police.

315.

Q. A, who is in Worcester, B, who is in Springfield, and C, who is in Boston, have never met. They arrange together to have X steal motor vehicles and take them to Worcester and deliver them to another person. Could they be convicted of Conspiracy? Why?

A. Yes, because they acted together by contributing each one his particular part in a common unlawful object. 248 - Mass. 19.

316.

Q. What is the legal definition of "Conviction"?

A. It means a final adjudication of guilt, upon which no further action can be taken.

317.

Q. Which of the following dispositions of a case could you use, if any, as a previous record against a defendant? On file; on probation; a plea of nolo contendre; sentence suspended.

A. None of them because they are not convictions within the meaning of the statutes.

318.

Q. What persons only are considered competent to testify as character witnesses?

A. Persons who reside in the community where the person lives, whom they are testifying for or against.

A police officer is also competent to testify if he has discussed with those in the community and has learned of the reputation of such person.

319.

Q. An officer enters a home with a search warrant to search for certain articles. He discovers an article there not covered by the warrant and seizes it, because it is evidence in a case pending. Could that article be used in evidence when it is unlawfully seized?

A. Yes. The fact that it was unlawfully seized is immaterial as to its admissibility in evidence. 189 Mass. 457.

320.

Q. What important statement should an officer try to obtain from a defendant charged with being an accessory after the fact, which is incumbent on the government to prove?

A. A statement from the defendant that he is not related to the principal felon or accessory before the fact, either by consanguinity, affinity, or adoption; as husband or wife, parent or grand-parent, brother or sister, or child or grand-child.

321.

Q. You are given a warrant to serve on James Brown for a misdemeanor. You know that James Brown did not commit the crime, but that Thomas Brown did it. If you made an arrest on that warrant, who would you arrest, and if you did not arrest either one of them on that warrant, what would you do?

A. If I made an arrest, I would arrest James Brown, who is the person named on the warrant. I would have no authority to arrest Thomas Brown on that warrant, even though I knew that he was the one who committed the crime. But in this case, it being a clerical error, I would not serve the warrant on James Brown. I would take the warrant to the court that issued it and have the error in the name rectified by changing the name to Thomas Brown.

322.

Q. In which of the following cases would an officer be justified in shooting to strike? Reasons.

(a) A high-powered car was being operated in the early morning hours at a rate of speed of nearly 70 miles an hour. An officer on duty, seeing the approaching car, stepped out into the road to intercept it. The operator deliberately tried to run the officer down but he got out of the way of the car, and the perpetrator escaped.

(b) A citizen deliberately ignores the signal of a traffic officer and goes by the officer's station and departs.

(c) Officer discovers a break in a building in the daytime and finds a meek person trying to hide from him.

(d) Officer is trying to arrest a man for whom he has a warrant. A crowd surrounds the person wanted and threatens the officer and put their hands in their pockets as if to draw weapons.

(e) An officer at night hears an explosion in a bank. A man runs from the bank and refuses to stop when called upon and has too good a start to be caught by chase.

A. (a) This shooting is justified because of assault on the officer with an automobile with intent to kill. A felony.

(b) This is not justified; it is simply a misdemeanor. Get him later.

(c) This is not justified, because there was no assault and no reason to believe he could get away.

(d) Shooting is justified; the officer has a right to anticipate a resistance, and when persons threaten an officer who has made an arrest, and act as if in a mood to assault or dangerously wound the officer, he is justified in shooting, after a warning, to protect himself from death, etc.

(e) This is justified; the officer had reasonable belief that the person running away had committed a felony, especially after being called upon to stop.

323.

Q. You have just arrived at the scene of a murder. State in detail just what you would do.

A. Arrest the perpetrator if possible. Get the names and addresses of the witnesses, especially the ones who notified me, and the one who found the body. Have the victim identified, if possible, get a description of the person who committed the crime, if he escaped, and immediately get in touch with the station giving information and description of the perpetrator if he escaped, and do not leave the body until the arrival of the Medical Examiner. Allow no one to leave the building or vicinity whose testimony or information might help to clear up the case. Allow no one to touch the body or any articles in the room. Keep all persons out of the room or vicinity of the body, except proper officials. Be careful of the knife or revolver in handling it, so as not to spoil finger prints. Enter in my notebook all material facts, including a diagram of the room, the position of the body with reference to other objects and the position of the head, arms, legs, etc. Note the clothing, whether disarranged or not, and make a full description of it. Search for the weapon and if found, take a complete description of it including the maker's name and number, etc. Get statements from witnesses, if possible, and enter their statements in my notebook. Be ready to help the investigating officers with a list of the witnesses, their knowledge of the affair and any other facts that may help to clear up the case. On future tours of duty, be vigilant in obtaining any other information or witnesses that may help in the case. Make a complete report of the whole case to my commanding officer.

324.

Q. What authorities grant licenses, permits, certificates of registration, etc., for the following?

(a) Druggists, for the sale of narcotics?

(b) Manufacture, transportation, importation, and exportation of intoxicating liquors?

(c) Insurance brokers?

(d) Private insane asylums?

A. (a) State Board of Registration in Pharmacy and the Collector of Internal Revenue. (Certificate of Registration).

(b) Alcoholic Beverage Control Commission (license).

(c) State Commissioner of Insurance. (license).

(d) State Department of Mental Diseases (license).

325.

Q. What reports are required by law to be made, and to whom, by licensed dealers in second hand motor vehicles and parts?

A. Class 1 licensees, a weekly report; and classes 2 and 3 licensees, a daily report (to the Registrar of Motor Vehicles, and a copy to the Police Commissioner in Boston, and in other cities and towns to the local Chief of Police, on blanks prescribed by the Registrar) of the second hand motor vehicles, of the parts thereof purchased or sold by him or stored for the purpose of sale. G.L. 90 - 62-63.

326.

Q. State briefly five outstanding causes of juvenile delinquency.

A. (1) Bad companionship. (2) Lack of religious training and education. (3) Lack of home supervision resulting from daily employment of father and mother, or due to the death, separation, or desertion of either parent. (4) Attending moving pictures of a certain type. (5) Newspaper publicity of criminal news. (6) The practice of hanging around billiard and pool rooms, bowling alleys, etc. (7) A declining respect for all authority.

327.

Q. A, B, and C, as a result of an argument, become engaged in a free-for-all fight. You arrest them for engaging in an affray. What must you prove?

A. That they were fighting in a public place to the terror of the people. This means that they were mutually assaulting one another, and the neighborhood was terrorized through their actions, and not because one man assaults another and the one assaulted, in order to protect himself, fights back.

328.

Q. What advice would you as a sergeant give to a police officer who informed you that John X. Smith, a deserter from the U.S. Army, had taken refuge at 46 Cabot Street, and that he, the officer, had been refused admittance when he sought to enter and make the arrest?

A. Art. of war 106 makes it lawful for any officer having authority under the laws of the U.S. or any State, territory, or district to arrest offenders, to summarily arrest a deserter from the Military or Naval Service of the U.S. and deliver him to the Military Authorities of the U.S.

If Smith was a declared deserter and three years had not elapsed from the date of his desertion, I would instruct the officer that if he was in fresh pursuit of Smith, he would have a right to force an entrance and arrest him. Otherwise, he would have to wait for an opportunity to meet him on the street, or get a warrant from the proper authorities for his arrest.

329.

Q. Suppose a Constable is about to serve a writ of ejectment on a certain family, and he calls on you in the name of the Commonwealth to help him. What would you do?

A. This is a civil matter. I am not required to help any officer in the service of civil process. If a breach of the peace was committed in my presence, I would arrest for that crime or if the constable had already made an arrest and he called upon me to help him to prevent the arrested party's escape, I would do it. 41 - 94; 37 - 13.

330.

Q. (a) What is a bench warrant? (b) What is the purpose of it.

A. (a) A warrant issued by a judge at the bench at an official sitting is a bench warrant.

(b) It is issued by a judge for the arrest of a person either in contempt of court, or after an indictment has been found, or to bring in a witness who has disobeyed a subpoena.

331.

Q. As a police officer or detective assigned to the following case, how would you act? Mr. X is the owner of a five-story tenement house. He resides on the second floor with his wife and children and conducts a grocery store on the first floor. Through the mail he receives a letter demanding $500 under the threat of injury to his family and property. He notifies the police. On the following afternoon, he receives a corrugated box delivered by a man, in which box is a letter instructing him to put $500 into a small cloth bag and attach it to the leg of one of five pigeons which are in the box, and to liberate them at sunset.

A. This is a case of blackmail (attempting to extort money by threats). I would have been covering the house and watching for such a man to come and make further demands. I would arrest him, seize the box, pigeons, letter and wrapper for evidence and finger prints. I would question the prisoner, search him and his house, trace his friends and accomplices for further evidence. Trace the letter to its mailing place. Find out if the prisoner or his friends mailed it. Check up on the handwriting of the prisoner and other suspects. If necessary, get permission from Headquarters or the District Attorney to release the pigeons and have an airplane follow the bird with the paper attached. If the prisoner was simply a messenger of an Express Company, I would trace the senders through that company. I would arrest and have prosecuted all guilty parties.

332.

Q. Under what conditions, if any, may a dog with cropped ears be exhibited in a dog show?

A. When a duly registered veterinarian, who cropped the ears of the dog, has certified that such cropping was reasonably necessary, or if the cropping was done prior to the passage of this act, if the owner procures it to be registered with the clerk of the city or town in which he resides, or, if a non-resident, with the Director of Animal Industry, Department of Conservation. 1938, c. 347.

333.

Q. X, who occupies a suite of rooms in a house owned by A, is convicted of unlawfully selling intoxicating liquor in May and again in July. Under what conditions, if any, can A, the owner, be convicted of aiding and maintaining such nuisance?

A. Upon the first conviction the court will cause to be served on the owner, A, a written notice that X has been convicted. If A, after due notice, does not take reasonable measures to eject X as soon.as that may be lawfully done, he can be convicted of knowingly letting his premises for the illegal sale of intoxicating liquor. Chap. 138 - 58 - 139 - 20.

334.

Q. A was arrested on a warrant issued by the district court charging him with robbery. He asked for a hearing and he did not offer any evidence in his own defense. At the trial in the Superior Court, the complaining officer, while testifying, informed the jury that A did not testify at the hearing in the district court. Was the officer within his rights in so testifying?

A. No. The officer had no right to refer to or comment on the fact that A did not testify. 278 - 23.

335.

Q. Explain why the ordinary method of reporting arrests in annual reports is no safe measure of the efficiency of a police department, stating what in your judgment would adequately measure such efficiency.

A. The ordinary method of reporting arrests is just a statement of the number of arrests made for a particular class of crime. The way to find out how well the police are handling these cases is to report the number of such cases that have come under the observation of the police and then the number of arrests made, and the convictions or results of such arrests, to determine whether or not the police are doing good work. The best test for the efficiency of the police is the absence of crime or the reduction of crime to such a minimum that it has become negligible.

336.

Q. A patrolman, who should be on the street patrolling his route, is brought before you in an intoxicated condition while in uniform. You decide that this is a case in which your duty requires you to prefer charges against this patrolman on account of his intoxication. State the successive steps you would take in the matter and what entries and reports you would make, beginning with the time the patrolman is brought in, to the time the Commissioner sends out his general order informing the department of the results of the trial of the patrolman. You may assume that the officer is found guilty by the trial board, or you may assume that he is acquitted of the charge.

A. I would note the time he was brought in, his general appearance, smell his breath for the odor of liquor, have other superiors or police officers note his condition and appearance. Tell him he is charged with being drunk and unfit for duty or wait until he is sober enough to make a statement. If he asks for a doctor, allow him to have one, but get a doctor to represent the department in the case also. Get a written statement from such doctors as to his condition. If they state that he is drunk and unfit for duty, keep him in the guard room until he is sober. If he insists upon going home, arrest him just the same as any other drunk and place him in a cell. Verify any statement he makes before he leaves the station. Make a full report on the journal and to the Superintendent, and be governed by his orders as to whether or not to suspend the patrolman. Prefer charges against him for "intoxication". The following questions should be asked of the accused and the answers investigated.

(1) How much liquor did you drink? Answer.

(2) Where did you get it? Answer.

(3) Are you sick or under the care of a physician? Answer.

(4) If so, what is his name and address? Answer.

(5) Have you taken any intoxicating liquor or medicine by order of a physician? Answer.

(6) If so, what kind and what amount did he prescribe? Answer.

(7) When did you last see such physician? Answer.

If the man is suspended, all uniforms and equipment held by the accused - that is, city property - shall be returned to the department. I would be prepared to prosecute the charges before a trial board or before the Commissioner. I would read the result of the trial in general orders at at least two roll calls. If punishment duty was ordered, I would make a written report of every tour of such duty performed by the officer to the Superintendent and when his punishment is finished, so report it to the Superintendent.

337.

Q. What are the rights of a person arrested with or without a warrant at the time of the arrest?

A. He has a right to know the true grounds for the arrest from the officer, also that the one arresting him is an officer or a proper person to make such arrest. If it is on a warrant, the person arrested has a right to see the warrant if it is safe to let him do so, or any person acting in his behalf has the same right. In both cases, he must be notified that he is under arrest, and the officer must lay hands on him; or the arrested party must submit to the words of the arrest before the arrest is completed.

338.

Q. What elements must you prove in court in a case of "larceny from the person"?

A. First, that there was a taking of personal property; second, that such taking was from the person of another; third, that it was taken with a felonious intent to convert it to his, the taker's, use; and fourth, that the taking was without force, violence, or threats of bodily harm - that is, by deftness, stealth, or in secrecy.

339.

Q. You are given a search warrant for liquor to search the premises of X. Upon such search you find a barrel of whiskey, a cask of wine, a case of new shoes, a barrel of mash, 500 lbs. of sugar, a copper still in operation, a revolver, a package containing a substance that resembles a drug. Which of the above named articles could you legally seize on this warrant?

A. The barrel of whiskey and the cask of wine and any other containers of such liquors. I would immediately apply for a search warrant to seize the drugs, and a search warrant for stolen goods, and seize these articles on such warrants. I would inquire as to the ownership of the revolver and if it was owned by an alien, I would arrest him, seize the revolver and prosecute him in court.

340.

Q. What authorities grant licenses, permits, certificates of registration, if any, for the following: State which one is granted.

(1) Transient vendors. (2) Retail drug business. (3) Moving picture operators. (4) Collateral loan agencies. (5) Employees of a detective agency.

A. (1) Director of Standards, Department of Labor and Industries. (License)

(2) Board of Registration in Pharmacy, Department of Civil Service and Registration. (Certificate of Registration)

(3) Inspection Department, Department of Public Safety. (License)

(4) Supervisor of Small Loans, Department of Banking and Insurance.

(5) No license, permit, etc., required. Employed by a Licensed Operator.

341.

Q. A respected citizen desires to carry a revolver on his person. He does not own one. He asks you to inform him as to the necessary steps he must take in order to do this. State in detail what information you would give him. Omit nothing of importance.

A. I would inform him to make application in writing for a license to carry and a permit to purchase a revolver, to the Mayor, Selectmen, Magistrate of a court, Police Commissioner, Board of Police, Commissioner of Public Safety, or any other person authorized by them as the case may be; that the license would probably be granted if he can satisfy the licensing authority that he has a good reason for carrying such firearm, and that he was a proper person to be so licensed, not having been convicted of a felony, or as a user or unlawful seller of narcotic drugs, and he being a citizen.

342.

Q. John Brown counsels and advises Thomas Jones to steal a package containing certain merchandise valued at $75, from a common carrier. Jones steals the package. What crime is committed by both, and is it a felony or a misdemeanor?

A. (1) Both are guilty of conspiracy, in this case a separate offense.

(2) It is a misdemeanor (larceny from a common carrier). They are both guilty of the same crime, as Brown advised and counselled Jones to steal it, and anyone who takes part in a misdemeanor in any way is equally guilty with the actual perpetrator.

343.

Q. Name five outstanding qualifications a good detective should possess.

A. (1) A keen power of observation. (2) Ability to gain and hold confidences. (3) Persistence and a tireless capacity for work. (4) A suspicious nature. (5) Ability to question so as to get information.

344.

Q. You, as a sergeant, are detailed on liquor work. You send John Clark, a new patrolman, into a dwelling house where he procures an unlawful sale of intoxicating liquor, to wit: a pint of whiskey. You are on the outside of the house and he comes out to you with the liquor and not with the man who sold it to him. Under what conditions, if any, could you then go into the house with him and make the arrest?

A. If Clark had attempted to make the arrest and was unable to make it alone, I would go with him to complete the arrest. If he had made no attempt to arrest and left the premises, the offense becomes a past misdemeanor for which there is no right to arrest without a warrant.

345.

Q. A maliciously burns the factory of B in the night time. C is employed by B as a watchman and he habitually sleeps in the factory. A is charged with maliciously burning the dwelling house of B. A defends on the ground that the factory is not a dwelling house. Is his defense good?

A. No. Ordinarily a factory would not be classified as a dwelling house, but where a portion of it is used by the proprietor, servant, watchman, etc., to sleep in, it is sufficient to constitute a dwelling house. This applies also to a store with a habitation in the rear, where the proprietor or his family sleep.

346.

Q. Give complete outline of the duties of the Chief of Police.

A. The "Chief of Police" is the chief executive officer of the department. He is responsible for the government and administration of the department. "Government" means the strict enforcement of the laws and ordinances, compliance with the rules and regulations of the department, instruction, discipline, and the general harmonious and healthy condition of the department.

"Administration" means the proper keeping of the arrest book, payroll, records, the journal, care of prisoners, etc., and the rendition of reports, requisitions, and returns to the proper superior officers.

The "Chief" should at all times be ready to render service to his department and during his absence should appoint some one in command. He should establish the routine of daily duties to be performed by his officers. He should visit and inspect his officers and note any neglect or improper performance of duty. As the absence of crime in his city or town is the surest sign of his efficiency, all his instructions, assignments, and conduct of the department should be with this end in view. All this applies to a captain of a division.

347.

Q. What does section 100 A, of chapter 123 G.L. allow courts to do in connection with persons arrested for misdemeanors who are found to be insane? What duty does this impose on the police?

A. The court has the power to commit any person under complaint or indictment for any crime, if at the time of trial or sentence he appears to be insane, to a state hospital or to Bridgewater.

When the officer knows that he has been indicted more than once for any offense or previously convicted of a felony, he should notify the court so that the defendant can be examined by the department of mental diseases, to determine his mental responsibility. 123 - section 100 A. The police should notify the court of any knowledge of insanity in the accused.

348.

Q. Define the following terms applying to firearms:
(a) Caliber. (b) Shell. (c) Cartridge. (d) Rifling.

A. (a) The diameter of the barrel bore and also the diameter of a bullet is the caliber.

(b) The shell is the metallic case containing the powder, bullet, and primer of the cartridge.

(c) A cartridge is composed of the shell, powder, bullet, and primer, all together making a complete cartridge to be fired in a pistol or revolver or other firearm.

(d) The rifling is the spiral lands and grooves inside the barrel bore, which cause the bullet to rotate, thus increasing its accuracy and velocity.

349.

Q. A child under 16 years of age does any of the following things: Sells something to a second hand dealer; pawns clothing at a pawnbroker's; sells something to a junkman; buys cigarettes of a storekeeper. In each of the above-cited instances, should the minor be placed under arrest? If so, what should be the charge?

A. The child in all these instances has committed no crime, therefore he should not be arrested.

350.

Q. Explain the methods used by safe burglars in each of the following common classifications:

(a) The can opener method.
(b) Combination workers or breakers.
(c) Soup of nitro-glycerine workers.

State how the soup of nitro-glycerine is placed and held around the door to prevent it from leaking out. How the sound of the explosion is muffled and how the charge is touched off.

A. (a) The can opener is an implement used to rip open safes. It is an instrument similar to a crow-bar, made of steel, pointed on one end and shaped like an ordinary can opener, with a strong cutting edge on the other side. To open the safe they use the pointed edge to punch a hole in the bottom or sides of the safe, and then using the cutting edge as a means of cutting open a hole large enough to insert the hands, they thus extract the contents of the safe. This opener is used just like a person would use a can opener in opening a can of tomatoes.

(b) Combination workers usually knock off the combination dial with a heavy instrument and work on the lock with a punch driving the pin back, releasing the bolt, and opening the door. Sometimes, it is necessary to use explosives on the combination to get it open. Some of the old time combination workers were clever enough to solve the combination by the touch of the fingers and by listening to the workings of the combination.

(c) The soup or nitro-glycerine worker usually steals dynamite from contractors and boils it down to extract the "soup" or nitro-glycerine. When they desire to blow a safe, they take advantage of the play that is in the door, by inserting a knife blade or a thin piece of steel in such cracks then making them water tight by placing common soap around such cracks, leaving a cup or hole made of the soap on the top so that the explosive when poured into this cup will leak or work down into the cracks in the door. A fuse or detonator is then attached to the explosive, and blankets, carpets, mats or mattresses, etc., are placed over the safe to deaden the sound. When all is ready, the fuse is touched off, either by a match or by electricity, as the case may be.

351.

Q. Under what conditions are slot machines, which upon the deposit of any (specified) coin furnishes music or other entertainment, or exhibits pictures, provides facilities for weighing, or supplies any merchandise, allowed to be maintained?

A. The proprietor of the place in question must be licensed by the Mayor of Boston and any such machine must be approved of by the Director of Standards. Such machines must not be used in any gambling operation. 94 - 283.

352.

Q. A and B induce C to commit a felony. While C is committing the crime, A is outside the building to watch and to protect C from the police. B, unknown to A and C, is hiding nearby to see that A and C carry out their part of the crime. What crimes are they all guilty of?

A. C is principal in the first degree, A principal in the second degree. B is an accessory before the fact to A's and C's crime. But all are liable to the same punishment under our laws. To be a principal, you must be present and the others must know that you are there and rely on you for aid or assistance. Com. vs. Knapp-9 Pick. 496 Beales Cases."

353.

Q. Write in about 100 words what you think the principal purposes of an efficient police force are?

A. The first purpose of an efficient police force is the prevention of crime; the second, the detection and arrest of criminals if a crime has been committed; the third, the care and protection of life and property; fourth, preservation of public tranquillity; and fifth, the enforcement of all laws and ordinances. To these may be added the proper handling and regulation of vehicular and pedestrian traffic. To gain these ends all efforts of an efficient force must be directed. The absence of crime, the tranquillity of the public, and the smoothness of traffic regulation will alone prove the efficiency of any department and the objects for which the police have been appointed will have been attained.

354.

Q. Write in about 100 words what you would do to increase the efficiency of your division if you were put in charge.

A. I would investigate and find out whether or not all laws and ordinances were being enforced; that the rules and regulations of the department were being complied with; that proper instruction and discipline were being maintained; and I would make recommendations or give orders accordingly.

I would insist upon lieutenants and sergeants carrying the full load of their responsibilities as superior officers.

As the individual patrolman is the greatest asset for the efficiency of the division, I would observe each one as to his character, deportment, temperament, and powers of observation, making changes where I was satisfied that a particular patrolman could work more efficiently on another route.

In general, I would do anything that would increase the "esprit de corps" or "harmony" amongst the men and thereby increase the efficiency of the division as a whole.

355.

Q. What is the Chief of Police or the Superintendent required to do on the report of an explosion caused by gas or electricity?

A. He shall within 24 hours report the same in writing to the Department of Public Utilites, stating the time, the place and circumstances of the accident and such other facts relative thereto as the department may require in cases where a person is rendered insensible, killed, or injured by gas or electricity. The Superintendent shall also notify the Health Commissioner of like accidents. 164 - 95.

356.

Q. With what city departments is the police department brought into the closest relationship? How do they cooperate?

A. The police department is brought into the closest relationship with those city departments that have the power of making their own rules and regulations, laws, by-laws, etc.; which have the force and effect of the law, and require the police to carry them out.

These are the fire, health, park, public works departments, and the street commissioners. We cooperate with them by enforcing all laws relating to their particular departments. At a fire, we assist by keeping the crowd back, taking care of lives and property, etc. We assist the health department by reporting cases of contagious disease, by reporting anything that may be a health menace, etc. We assist the park department by enforcing all park rules and preventing the destruction of trees, flowers, shrubbery, etc. We help the public works department by reporting water leaks, defective sidewalks, etc., and the street commissioners by enforcing their rules and regulations.

357.

Q. What police action would you take in the following cases? State reasons for your answer.

(a) A surgeon calls at an apartment house and removes the victim of a crime to a hospital before the arrival of a policeman. The man dies a few minutes after he is brought to the hospital.

(b) The residents in the vicinity of a manufacturing chemist complain that he uses soft coal.

(c) An army aviator tries to make a landing and crashes into a tree. It is found that he was drunk at the time.

(d) A man is arrested late Saturday night on suspicion of a felony and brought to the station house. Before the desk officer has completed entering the arrest, counsel for the person arrested appears with a bondsman and demands that he be bailed.

(e) An alien arrested for a felony admits the commission of a misdemeanor involving moral turpitude, prior to his entry into the country.

A. (a) There is no law that prohibits a surgeon from removing an injured person to the hospital. The police should interview the surgeon to get any facts or details as to the commission of the crime, or conversation the surgeon had in relation to the crime with the dead man. I would notify the Medical Examiner. All property in the house should be left as found and safeguarded until the arrival of the Medical Examiner. Make out a report of the whole affair to my captain. I would also get witnesses, arrest guilty person, safeguard all evidence such as weapons, poison, etc.

(b) If there was a "smoke nuisance", that is, there was an emission of dark smoke or dark gray smoke for more than five minutes continuously, or the emission except as aforesaid, of such smoke during ninety minutes of any continuous period of 12 hours, within 1/4 mile from a dwelling, it would be a nuisance unless the party responsible for such smoke had a permit from the Mayor, signed by the city clerk.

(c) Arrest for drunkenness, and safeguard the plane. I would then notify the Army Authorities and let them take the plane. Put the additional charge of operating an aeroplane while under the influence of liquor, and so as to endanger the lives of the public, if any one's life was endangered by his action.

(d) I would inform the lawyer that the client was arrested on suspicion of felony, and that if on investigation he was found innocent, he could be discharged without going to court, if he would sign the necessary waiver. If the lawyer insisted on the client being bailed, I would put down the charge which he was suspected of having committed against him, and allow him to be bailed, provided the district attorney agreed to his being bailed and agreed as to the amount of the bail.

(e) Book him for the felony. I would also get the date of his arrival in this country, the port, the boat, and the country of which he is a subject. I would then notify the Commissioner of Immigration, so that his representative can be present to take court action. This alien is a subject for deportation under our Federal Laws.

358.

Q. What reports are Chiefs of Police or the Commissioner required to make? How are these reports classified? How often are they made?

A. A Chief of Police or a Commissioner shall make a monthly report of the number of arrests made of persons of either sex in his city. This report shall go to the Commissioner of Correction. Such arrests shall be classified according to the offenses. Failure so to make out these reports, fine $50.

359.

Q. One of your patrolmen reports to you that upon his route he has come across a contractor who has dynamite in his possession; that is, the contractor is blasting or using dynamite in order to excavate a foundation of a building which he intends to build for Mr. Jones. What investigation, if any, would you tell the patrolman to make, and what instructions would you give him as to what he should do after the investigation is completed?

A. I would tell him to find out if the contractor had a permit to use dynamite in blasting and had filed a bond as required with the city clerk. Also if he had a license to store dynamite in a building, etc., and if blasting, that he had taken the necessary precautions before each blast, in case he had such a permit. If he had no permit from the State Fire Marshal or a license from the Street Commissioner, I would instruct the officer to arrest him without a warrant, seize the dynamite, and notify the Fire Marshal. I would have him complain of the contractor in court for blasting without a permit, and storing explosives without a license. Upon his conviction, I would have the patrolman turn all such dynamite over to the State Fire Marshal for disposal.

360.

Q. Describe an efficient system of supervision of detectives that will bring results.

A. Detectives should be picked for their particular qualifications, and should receive a thorough instruction in their particular branch of detective work from the more experienced members of the B.C.I. They should receive assignments in cases that apply to their particular branches of police work, and particular attention should be paid to how they conduct their investigations and whether or not they bring them to a successful ending. The commanding officer should keep an assignment record, which would in itself show how such cases are being conducted and whether or not the detective should be returned to the uniform force again. The commanding officer should require detectives to make frequent reports as to the progress made, and he should make suggestions for better methods of procuring evidence or accomplishing the arrest of the criminal. He should also require the detectives to keep in touch with the Bureau by telephone or some other method. Detectives should be given a free hand in working out their solution of a crime, but their superiors should check up on their work from time to time with a view to improvement or criticism that will help them in solving the crime. No time should be wasted on an inefficient officer, as there are plenty of good officers waiting for a chance to get to the B.C.I.

361.

Q. Name five places where a Chief of Police is permitted to visit without a court order.

A. Pawnbrokers shops; lying-in-hospitals; billiard or pool rooms, etc.; public lodging houses; manicuring or massage parlors; places where dogs, birds, or other animals are kept or exhibited for fighting, etc.; licensed junk dealers; second hand dealers; drug stores to inspect their records of sales of drugs, etc.; and licensed liquor dealers' places.

362.

Q. What is your understanding of the powers of a captain to suppress any and all gambling?

A. In the suppression of gambling, a captain will find that he has ample laws governing all forms of it; that he can obtain a search warrant to search places suspected of unlawful gaming. He, or any other police officer, can arrest without a warrant for any gambling in a public place, on a public conveyance, or in any place where the gamblers are trespassers. Finally, in those places that have erected doors, windows, and other entrances of unusual strength to obstruct the entrance of the police, where the gambling is going on or suspected of going on, the captain can order the same removed by the owner or agent of the building where such obstruction exists, by giving a written notice to him or posting such notice on the outside of the apartment or building, and if the owners fail to have such doors, windows, bars, etc., removed within seven days from the date of said order, the captain shall cause such obstruction to be removed from the building, and the expense shall be a lien on the building to be collected by the officer removing such obstruction, in the manner of a mechanic's lien.

363.

Q. What material difference is there between a District Court warrant and an indictment warrant in regard to Rendition?

A. If the indictment has been found, certified copies in duplicate must accompany the application. If no indictment is found (lower court warrant) the facts and circumstances showing the commission of the crime charged, and that the accused perpetrated the same, must be shown by affidavits taken before a magistrate. It must be also shown that a complaint has been made; copies of which must accompany the requisition, such complaint to be accompanied by affidavits to the facts constituting the offense charged, by persons having actual knowledge thereof, and that a warrant has been issued and duplicate certified copies of the same, together with the returns thereto, if any, must be furnished upon application.

364.

Q. What is a hackney carriage?

A. Every vehicle used for the carriage of persons for hire within the city of Boston, except a street or elevated R.R. car, or a trackless trolley car, or a jitney bus, or a sight seeing bus, shall be deemed a "hackney carriage".

365.

Q. A man accuses a woman of attempting to blackmail him by letter into giving her $1000, by her not revealing to the man's wife the illicit relation he carried on with the woman some time ago. What further evidence is necessary to convict her?

A. The letter or written communication should be produced, and the letter identified as having been written or delivered by the accused to the complainant, or mailed by her. Additional evidence of statements made by witnesses who heard the woman threaten the man and proof of the illicit relations with the woman would help convict also. If possible, a statement from the woman admitting her guilt, would convict.

366.

Q. A hotel keeper accuses a patrolman of your division of attempting to extort $200 from him for a promise not to arrest the hotel keeper for the alleged sale of liquor in the hotel. What further evidence should be obtained to convict?

A. No further evidence would be necessary if the hotel keeper tells a plausible story and the jury believes him. However, in order to make the conviction more certain, it would be well to inform the hotel keeper to make an appointment with the patrolman at some designated place, have witnesses to the conversation with the patrolman, and have the hotel keeper hand him marked money. The patrolman should afterwards be immediately arrested and searched and the money found on him would be conclusive evidence of not an attempt at extortion, but extortion.

367.

Q. A burglary has been committed and thereafter an arrest on suspicion was made. On the person of the man arrested was found a pawn ticket representing the property stolen. State clearly what would be required to convict him of the burglary?

A. Proof that there was a burglary, that is, a breaking and entering; that it was the dwelling of another; that it was in the night time, and that there was certain property stolen. The owner of the property should testify to the house being left secure and the goods being inside; he should also identify the stolen goods. Some person should testify to finding the break and the goods gone. The pawnbroker should identif the ticket, and the culprit as being the one who pawned the good within a reasonable time after the break. Evidence that the accused was seen entering the house, coming out, or in the vicinity at the time of the commission of the offense would also help to convict him. Such evidence could also be proven by his finger prints or foot prints.

368.

Q. When would it be a crime to impersonate a public officer?

A. Whoever falsely assumes or pretends to be a justice of the peace, sheriff, deputy sheriff, medical examiner, associate medical examiner, constable, police officer, probation officer, or examiner or investigator appointed by the registrar of motor vehicles, and acts as such, or requires a person to aid or assist him in a matter pertaining to the duty of such officer - $400 fine or 1 year, H.C.

369.

Q. A man is badly wounded in a fight on board an English vessel which is about to sail from Boston. The captain orders the man removed from the vessel to the dock, where he dies. What would be your procedure? Give reasons.

A. Massachusetts has jurisdiction over any crime committed within the borders of the state. The fact that the crime was committed aboard a foreign vessel (not a man-o-war) does not deprive us of our jurisdiction, particularly in this kind of a case. I would order my men to go aboard the vessel, arrest the guilty parties and detain the necessary material witnesses, no matter what the captain may say. We can take jurisdiction over any case happening aboard any vessel not a man-o-war. If a foreign vessel comes to our port, it is no different from any foreign individual. I would have a man guard the body, get the pedigree of the dead man, notify the medical examiner, and get all the necessary evidence as in any other murder case.

370.

Q. What is meant by a "hawker and pedlar"? Who licenses him?

A. Any one who hawks, vends, sells, or peddles merchandise in the street, going about from place to place on foot or in a vehicle, except those who sell newspapers, or fish, fruit, vegetables or farm produce, which merchandise is the result of his own or his family's labor. He must be licensed by the State Director of Standards or the Health Commissioner of Boston.

371.

Q. What would satisfy you that a "hackney carriage driver" is living up to the law in operating his vehicle, and in regard to himself?

A. He must have his "hackney carriage" driver's license with his photo attached; his hackney carriage license; and hackney carriage stand license; a copy of the rules and regulations concerning hackney carriages, issued by the Police Commissioner. He must have on the inside right lower corner of the windshield a plate bearing the number of his driver's license, and he must wear on the left breast of his outside gament a badge with his driver's license number on it. He must have some record of trips made. If it is a taxi cab, it must be equipped with a taxi meter. If it is a taxi or public auto, it must be registered with the Registrar of Motor Vehicles and the operator must be licensed to operate it and and have his license to operate and certificate of registration in an easy and accessible place or on his person.

372.

Q. The proprietor of a store on your division is selling blank cartridges, toy pistols capable of discharging blank cartridges, fire crackers and fire works on the Fourth of July. He has a permit from the Fire Marshal or some person designated by him to sell fire works. Which of the above articles is he prohibited from selling, even though he has a license?

A. He is prohibited from selling blank cartridges, except to those officially authorized to fire salutes, for use in licensed shows or theatres, for use in signalling in athletic sports, or for use by the militia, veterans organizations, etc., or by experts in the teaching of the use of firearms. He is prohibited from selling toy pistols except those named above.

He is prohibited from selling fire crackers of a greater length than 2 inches and 3/8 inch in diameter and fireworks containing picric acid or picrates. 148 - 39.

373.

Q. At 3.00 A.M. you, a police sergeant, meet a patrolman just as a fire breaks out in the tailoring shop of Levy and Cohen. You direct the patrolman to ring in the alarm, while you break into the shop and succeed in putting out the fire without assistance. You discover that the fire originated in a pile of paper patterns near a can of benzine, used presumably for cleaning purposes. State in detail what you would do, and what course of action you would follow?

A. Immediately on entering the shop, I would make a mental picture of its general appearance. After extinguishing the fire, I would try to determine whether or not it was by accident or design. I would note all suspicous circumstances in my police diary. I would examine the benzine can to see if it was a safety can as required by law. When the patrolman returned, I would call his attention to every suspicious detail so that he could testify to what he saw, in court. I would consult the Chief of the Fire Department upon his arrival, in regard to suspicious conditions. If satisfied that it was of incendiary origin, in addition to my regular report, I would notify the Fire Commissioner of Boston and work with the arson squad of that department in clearing up the case. If possible I would ascertain who owned the building, who was last seen going into or coming out of it, whether or not it was insured, the financial condition of Levy and Cohen's business, and whether or not they were over-insured and had removed a lot of their stock, etc. I would arrest all suspicious or guilty parties.

Whether the building were used as a dwelling or just for business purposes would bear directly on the crime of arson. If the building were owned by Levy and Cohen and used solely for commercial purposes and it was insured, and the fire appeared to be set for the purpose of defrauding the insurers, I would complain of them for burning or attempting to burn a building for the purpose of defrauding the insurers, according to whether or not the building was actually burned. Of course they could be accessories before the fact if they hired others to burn the building. If it was used as a dwelling and business building combined, I would complain of them for arson or attempt at arson according to whether or not the building was actually burned, in addition to the above complaints. The actual burning of some part of the building itself would be necessary to prove arson, otherwise it would only be an attempt.

They could be accessories to these offenses if they hired some one else to do the burning.

374.

Q. Within what time is the superintendent required to make a report and to whom in case of a death caused by gas or electricity?

A. He is required by law to make a written report of such death within 24 hours to the State Department of Public Utilities. If it is illuminating gas, he should notify the Health Department, the Medical Examiner, and if electricity, the Edison Electric Co.

375.

Q. A man is arrested and finger printed. To whom does the law compel you to send a copy of said finger prints, as Chief of Police?

A. Copies of all such finger prints shall be transmitted to the office of the Commissioner of Public Safety. 127 - 25.

376.

Q. A number of young patrolmen have been assigned to the division of which you are acting captain. Orders have been received that the men should be carefully instructed in their duties when appearing in court as arresting officers in criminal cases. Explain in detail the instructions you would give them, so that they will make a good impression on the court and bring about better results in the cases they are testifying in.

A. I would instruct them to be on time, wear their uniforms, be neat and clean in appearance, and bring their pocket manuals with them. Have all witnesses present and know what each can testify to, so that they may be called in proper order. I would have them make out application for a complaint and if the complaint is issued, be sure to read it carefully to avoid mistakes before signing it. Have witnesses take seats in court and remain in the court until the case is called. I would instruct them to have all evidence in court properly marked; not to lounge, sleep, or open the uniform coat in the court room; when the case is called, to stand up, hold up their right hands, and be ready to be sworn. When a case is called, the patrolman concerned in this case should tell his name (police officer attached to division ....); he should stand erect, and not lean or rest on any part of the witness stand; not to chew tobacco or gum in court. When questioned, he should answer in clear distinct tones; he should not volunteer answers; he should use "Yes Sir" and "No Sir" in answering, when it will suffice; he must not lose his temper, argue with counsel, or give opinions. He should simply tell what he saw and heard, and let the judge or jury decide whether or not the defendant is guilty or innocent. He must not show a determination to convict the defendant; he should comply with the rules of evidence as far as possible. He should not be too sure, especially in the measurement of time, etc., unless this was especially noted at the time of the occurrence.

When the testimoney is completed, the officer should step down, resume his seat in the court room until he is told he is no longer required, then he should leave the court room in an orderly manner, making no comments on the case.

377.

Q. A psychiatric clinic has been established in the Superior Court. State what you understand to be the object of this clinic with its advantages as understood by you.

A. The object is to cause a thorough mental examination of a person convicted of crime, with a view to seeing whether or not he should be released on probation, sentenced to an institution, or confined in an insane asylum. As a result of the examination, the person would be sent to the proper institution which his mental condition warrants. If criminal tendencies are brought about by a mental condition over which the accused had no control, proper treatment might restore him to good citizenship. Judges would be given the proper information to guide them in the imposition of sentences. Examinations of this kind would furnish statistics that would be beneficial to society in the prevention of crime. A clinic of this kind would save money and rehabilitate many. Each offender would then receive the best treatment for his particular condition.

378.

Q. Mention three methods of criminal identification in use in a good Police Department and state the essential points and the relative use of each.

A. The three methods used are as follows: The "Potrait Parle System", the "Bertillon System" and the "Finger Print System".

The "Portrait Parle System" consists of an accurate and distinctive description of the person's facial and physical appearance, deformities and peculiarities, as well as the color and pattern of his clothing. It is really a speaking picture of the man wanted, and is of much help to the police in identifying criminals, lost children, missing persons, and dead bodies

The "Bertillon System" was invented by a Frenchman named Bertillon and consists of a classification of the measurements of those parts of the human body that do not change after maturity. It also contains the color of the eyes, the hair, and the photograph of the person. This system was very accurate in identifying criminals when the measurements were taken by an expert, but this means of identification was found not to be infallible. Its uncertainty lies in the fact that no two policemen measuring a person or looking for deformities will record exactly alike, and that the body conformation and the facial expression may change with age and physical conditions.

The "Finger Print System" is the most positive means of identifying persons now in use. It has been adopted by most of the up-to-date police departments of the world, and has been proven to be of great success. A person may grow stout or thin, wear a beard or moustache, and his appearance may otherwise alter, but the papillary ridges of the skin on the ends of his fingers never change from the cradle to the grave, no matter how old he may be. Then again the methods used to take finger prints require no particular expense or technical knowledge, so that they have been accepted by courts, juries, and scientific experts as the best means of identification now in use.

379.

Q. A prisoner, upon being searched at the station house where he has been brought charged with being a pickpocket, is found to have a loaded revolver in his coat. The pickpocket charge cannot be sustained. He declares that the weapon is not his and insists that it was dropped into his coat unknown to him while he was being taken to the station. What course of action would you pursue?

A. He was arrested for pickpocketing. I am not a judge of the court, so I would have to book him on that charge even though the charge can not be sustained. In addition, I would also book him on the charge of carrying a revolver without a license, provided he had no such license so to do. I would also have the officers look up his record and if he was a known pickpocket, thief, or burglar and conditions warranted it, place a "vagabond" charge against him. In regard to the revolver, it is natural for criminals to deny ownership of such weapons, but on the other hand, I would investigate the matter thoroughly and try to determine who was the owner of the revolver, and if an injustice had been done to the man, I would be a voluntary witness against the officer in court and prefer charges against him. The officer when he appeared in court, would make a complaint against him on the pickpocketing charge and tell the facts, and that complaint would be dismissed, or the defendant could sign the waiver if no other charges were to be put against him.

380.

Q. What requirements of the law must a dealer in second hand articles observe when purchasing goods from a customer and what hours of business, etc., must he observe?

A. A second hand dealer must be licensed by the Police Commissioner and do business in the building designated only. He must keep a book in which shall be written at the time of each purchase a description thereof, the name, address, age of the person from whom purchased, the date, the hour; and such book shall be open to inspection by the police commissioner, the mayor or city council or any person authorized by them to make such inspection. He must not do business with minors. He must keep all goods bought at least 30 days before selling them, and he must make a written report of all articles purchased for the preceding 24 hours before 10.00 A.M. each day to the commanding officer of the division on which his business place is located. His hours of business shall be sunrise to 9.00 P.M. and 10.00 P.M. Saturdays.

381.

Q. A man is acting suspiciously around a residence at night. In answer to your questions, he says he lives in the house, but has lost his key. State fully what you would do.

A. Acting suspiciously may mean a lot of things. In the absence of evidence of a felony being committed, he cannot be arrested on suspicion of a felony. The officer should try to secure more evidence or give the man a chance to explain his suspicious conduct. He could call the janitor or other residents of the house, the neighbors, or even the corner drug store to identify the man. If the man proves his identity, I would do nothing more about it; if he fails to prove his identity, and his acts are suspicious and I had reasonable cause to suspect he had committed a felony, or attempted to commit a felony, I would arrest him on suspicion of such felony. If I found the felony had actually been committed and he was the perpetrator, I would book him for that charge. If I found no felony had been committed, or that he was not the guilty party, I would release him provided he signed the necessary waiver. Of course, in case of arrest, my suspicions would have to be reasonable, or I would be liable. I would take his name, address, also his description for future reference if necessary.

382.

Q. X concealed a file in a roasted chicken and conveyed it to Y, her brother, who had been convicted of robbery and was confined in prison. Y cut off the bars of his cell with the file and escaped. Can X be convicted of accessory after the fact to Y's crime of robbery?

A. No. A sister could not be convicted of accessory after the fact by reason of her blood relationship. In this case, she could be convicted of "aiding in the escape of a prisoner from State Prison", a felonious offense.

383.

Q. John Jones's license to operate has been suspended and he takes Smith's car without his permission. While out riding, Williams steals a tire from the car without Jones knowing it. What crimes are committed by both? Are these crimes felonies or misdemeanors?

A. Jones is guilty of using without authority a car after his license to operate is revoked. It is a felony. If Williams agreed with Jones to take the car, he is equally guilty with him; Williams is also guilty of larceny of the tire and it being taken while the car was being used without authority makes this act a felony. 90 -

384.

Q. A person registers to vote. You are assigned to find out whether or not such person is in every respect a legal voter. (a) State the facts you think necessary to verify. (b) State how you would do this?

A. (a) That he is a citizen of the United States; that he is a legal resident of Massachusetts and listed at his present or other address in Boston on January 1 of the current year. (b) His citizenship could be proven by his birth certificate in any part of the United States. If he were naturalized, he could show his citizen's papers or tell the place where he was so naturalized. I would inquire at his last address given in Boston as to how long he lived there, if he was a citizen, and if he was a resident of Boston on January 1, 1937, and that he was not registered in any other place in this city or in Massachusetts

385.

Q. While on post a patrolman meets a person whom he thinks is wanted for burglary. Before he has time to make certain, the man enters a house and the patrolman follows. Inside the door, he is stopped by a person who says that a meeting is in progress of a private lodge and no one except members may enter. What is the officer's duty in this case?

A. If he had reasonable grounds to believe the person who entered the house had committed a felony, he may pursue him any place he may go. If the man entered the meeting room, the officer should follow him. If, after stating who he was, his object, and demanding admittance, such admittance was refused him, he should force his way in and make the arrest. But his grounds must be reasonable.

386.

Q. What evidence is necessary to convict a person of "keeping a disorderly house" or a "house of ill fame"?

A. I would secure witnesses (police officers) who had made bargains with the inmates of the house in the presence of the proprietor for unlawful sexual intercourse. Evidence of conditions around the house, unusual number of men going in and remaining for a short time and coming out again would also help to convict. Also, I would try to find out if there was an unusual amount of hilarity in the house. If possible, I would get a search warrant and arrest one or more inmates in an act of fornication, etc. If the house is resorted to by prostitutes plying their trade, all that is necessary is to show that different men hired or went to a room in the house in question at divers times during a period of thirty days, with the same woman. I would try to prove that the proprietor knew or must have known that the house was so resorted to; it might be shown by witnesses that the neighborhood was disturbed by such conditions, etc.

387.

Q. What is a common nuisance?

A. A common nuisance is something that discommodes or injures the public. It must substantially interfere with the free exercise of a public right, shock or corrupt the public moral, or injure the public health. Mays Criminal Law.

388.

Q. What important things are to be considered in the supervision of licensed places?

A. (1) Has the place the required license?

(2) Is the license or permit being used for the purpose for which it was issued?

(3) Is it in the name of the person who is conducting the business?

(4) Is the license for the current year?

(5) Is the license displayed, if such display is required by law or ordinance?

(6) Does the licensee comply with the provisions of the laws or ordinances affecting the class of business he is engaged in?

389.

Q. Mention five conditions or occurrences which would justify a patrolman in leaving his route. State how he should report in each instance.

A. Arrest of any person. He should make out a written report of the facts of the case and turn it in at the desk. He also accompanies the patrol wagon to the station in all arrests except a drunk.

Lost Child. He would, if he were going any distance with the child, notify the station by telephone where he was going and what he was doing. Otherwise, he would bring the child in to the station and make a report as to where he found the child, etc.

Insane person. He would act the same as in an arrest in this case, that is, if he arrested the person; otherwise, he would notify the station why, where, and how long he was absent.

Assisting his side partner. If not an emergency, he should notify the station and get permission. If it was an emergency, he should go immediately, and upon his return notify his commanding officer by telephone.

Call of nature. He should telephone and ask permission first, if possible, stating the place where he is going, the reason, and if permission is granted, telephone immediately on returning. If he had not time to get permission, to go first, and then on his return telephone the officer in charge, tell him where he went, the reason, and the time he returned.

390.

Q. If you had an occasion to select a police officer of your division for permanent detective work, what qualifications would you expect such officer to possess in order for him to be a successful detective?

A. I would pick a young man of good physical appearance, who has shown exceptional aptitude in apprehending criminals. He should also have the following qualifications: honesty; perseverance; common sense; ability to get information; knowledge of the laws and criminal procedure; knowledge of criminals, how they act and why; resourcefulness, strategy, persistent effort; and a desire to bring any case which is assigned to him to a successful ending.

391.

Q. State several instances in which it is not unlawful to use force or violence upon the person of another.

A. (1) When defending one's self, one's property from assault or the forcible taking thereof, or when defending another person unlawfully attacked from assault at the hands of another. But the force used must not be more than absolutely necessary to protect one's self or prevent the execution of the unlawful act.

(2) In the making of an arrest, either by the police officer or a person assisting the officer in making such arrest, if the arrested person resists.

(3) In ejecting a disorderly person from a public vehicle, provided only such force is used as is necessary to accomplish such ejection.

(4) In restraining an insane person bent on doing injury to himself or others.

(5) Parents or school teachers in chastising children under their care, provided such chastising is reasonable.

392.

Q. State four ways in which a crime can be prosecuted without an indictment in Massachusetts.

A. (1) Where the proceedings are for the removal of a civil officer on impeachment by the Senate.

(2) Where the proceedings are for the removal of a Clerk of a Court, Sheriff, District Attorney, County Commissioner, Registrar of Probate, etc., by the Superior Court.

(3) Proceedings before a Court Martial or Summary Court. (Military.)

(4) Crimes that come under the jurisdiction of the Lower Courts.

393.

Q. A person has knowledge that another has cattle with a contagious disease. If he refuses to report it, is he guilty of any offense? If so, to whom must he report it and what is the offense?

A. Yes. A person who kills or inspects and has knowledge of cattle with a contagious disease must notify the owner and forthwith the Director of Animal Industries or the inspector for the town, of such disease, the place where found, the owner and disposition of the carcass. Failing to so do he is guilty of "having knowledge of cattle with a contagious disease and failing to report it to the Director of inspector of Animal Industries". 129 - 36.

394.

Q. (a) Has a captain power to make rules for his subordinates, and if so, what subjects may he cover in those rules?

(b) Does he have to have the approval of any other official to put these rules in operation?

A. (a) A captain has power to make minor rules for the guidance of his subordinates in their conduct in the use of the station house, not covered by Police Rules, etc.

(b) These rules must be approved by the Superintendent. Rule 24, section 2.

395.

Q. (a) What considerations would guide you in dividing your division into routes?

(b) What is the duty of a captain when he believes a patrolman is unfit to be trusted with the ordinary powers of that rank?

A. (a) The frequency of crime and its character should guide the captain in laying out routes, and the capacity of the individual patrolman to cope with certain kinds of crime better than other kinds should also be considered. The so-called "tough route" should be shorter than one where crime is less frequent. Where corner gangs congregate, insulting women, etc., a strong, stern patrolman who will inspire fear in this type is the best. Where secret crimes are committed, the quiet man who can use his eyes and report what he sees, is the best. The captain should study his men and use them to the best advantage for the success of his division as a whole.

(b) Keep a sharp lookout on such a man and when he is found wanting, make charges against him. There is no use wasting time on a man of this type.

396.

Q. What reports or notifications should the police department make in case a person has been killed by gas or electricity?

A. Report to the Department of Public Utilities within 24 hours; report to the Health Department; information to the Building Department if the building is under construction or repair; notification to the Medical Examiner; Gas Company, in case of asphyxiation; Edison Light Co., in case of defective wiring. Individual report should be made by the officer making the investigation, and sent to the Division Commander. Rule 49, section 5.

397.

Q. Considerable national publicity has recently been given to the deportation of aliens. Under what conditions and for what reasons are aliens deportable? How do police departments cooperate?

A. (1) An alien who within five years of entry into the country, is convicted of a crime involving moral turpitude and sentenced to a term of over one year.

(2) An alien who, at any time after entry, is convicted more than once of a crime involving moral turpitude and sentenced in each case to a term of over one year. Both of these cases must be subsequent to May 1, 1917, at which time the act became effective.

(3) An alien who, at any time after entry, is found practicing prostitution, such as keeping and maintaining a place for same, procuring either prostitutes or men for them, and living off the proceeds or being an inmate of such a place. "Practicing prostitution" means at least two convictions to show that it is practiced.

(4) An alien who, at any time after entry, teaches or advocates the unlawful destruction of property, or advocates or teaches anarchy, or the overthrow of the government by forms or violence, or the assassination of public officials.

(5) An alien, who within five years of entry, becomes a public charge as the result of a condition which cannot be shown to have occurred subsequent to landing.

(6) An alien who was convicted or admits the commission, prior to entry, of a crime involving moral turpitude.

(7) Aliens illegally in the country, smuggled in, those who jumped ship, visitors who overstay their leave, forged passports, etc., aliens convicted of smuggling narcotics, etc., those convicted of conspiracy to violate the drug laws.

MORAL TURPITUDE means any crime which as its result, makes a person of bad character. It is an act of baseness, vileness, or depravity in the private and social duties which man owes to his fellowmen in general, contrary to the accepted and customary rule of right and duty between man and man.

The police investigate the citizenship status and criminal record of an alien criminal and transmit reports to the Commissioner of Immigration.

398.

Q. Explain the bearing of the daily pawnshop return on burglars, thieves, etc., as far as the work of the inspectors is concerned.

A. Every licensed pawnbroker is required to make a daily report to the commanding officer of the division on which his shop is located, before 10.00 A.M., including all distinguishing marks, numbers, descriptions, etc., of all articles taken in pawn for the preceding 24 hours, the respective numbers of such pawn for the amount loaned thereon, and the time of pawning. This report is forwarded to the B.C.I.

daily. The articles reported lost or stolen are indexed in a card index file (held by B.C.I.) and compared with the articles pawned in the pawnbrokers' reports. If any article is suspected of being a lost or stolen piece of property, the inspectors go at once to the pawnshop and order the property held. They then get an accurate description of the person pawning the goods, his name and address. From this, they are often able to locate the thief and arrest and convict him. These reports are of great assistance in locating lost and stolen property, and lead to the arrest and conviction of criminals, even years after the property was stolen or lost. The pawnbroker is a valuable witness.

399.

Q. What is the duty of a police officer when a mail driver commits a crime?

A. A mail driver is liable for the commission of a crime the same as any one else. If he is charged with a crime, less than a felony, he should not be arrested when he is in charge of mail. In these cases, I would take his name, address, and number of the wagon or vehicle and apply for a summons for him. If it was a felonious offense, I would accompany him to his destination, if it was in Boston, and complete the arrest there allowing him to deliver the mail. If his destination was outside of the city, I would communicate with the Postal Authorities to take care of the vehicle and the mail, remaining with it until they took it or provided for its proper delivery. If he were drunk, I would arrest him, notify the Postal Authorities as above, and in all cases, take measures to protect the mail and insure its safe delivery.

400.

Q. A woman is arrested by an officer and charged with "soliciting" (common night walker). There is a reasonable doubt as to the guilt of the woman. What would you do as desk officer in this case?

A. Technically speaking, where an arrest has been made for a crime and the officer makes a charge against the arrested party, no one has authority to release such person but the judge of the court. In this case however, if I were reasonably sure the woman was not guilty, I would not book her, because of the nature of the complaint and the danger to her reputation. A desk officer should have some discretion in such matters, especially where it is obvious that the officer was wrong and I believe that the courts and the department would uphold me in my action.

401.

Q. (a) What are the duties of the police in regard to immigrants?

(b) What are the duties of the police at elections?

A. (a) The duties of the police in regard to immigrants are to protect them at stations and landings, to prevent them from falling into the hands of unscrupulous persons, and to render them every assistance possible by giving them proper directions and instructions as to how to get to their destinations.

(b) The duties of the police at elections are to preserve order at the polls, protect the voters in the exercise of their franchise, prevent fraudulent voting, and protect the integrity of the ballot. Before the opening of the polls, to deliver the ballot box and ballots, etc., is a duty also. After the closing of the polls, to deliver the ballot box, stamps, unused ballots, defective ballots, etc., at the office of the Election Commissioner, and after the counting of the ballots, to bring in the ballots and final returns to the office of the Election Commissioner.

402.

Q. Name five classes of mental defectives that you would be most likely to come in contact with. Define these classes.

A. (1) Insane persons - these persons are those who are mentally deranged.

(2) Morons - are persons whose mental development has been arrested at the point reached by a normal child of 12 years.

(3) Kleptomaniacs - persons having an irresistible mania to steal.

(4) Pyromaniacs - those having an insane impulse to destroy by fire.

(5) Moral perverts - are those persons who are sexually reversed in their moral conduct.

(6) Monsters - are persons addicted to unnatural wickedness.

403.

Q. A is in Rhode Island and he shoots across the line into Massachusetts and kills Y. A is still in Rhode Island. He is arrested by the Providence, Rhode Island, Police on request of the Massachusetts authorities who have a warrant for his arrest for murder. He denies ever being in Massachusetts. Can he be extradited?

A. Under the new Interstate Rendition Act, he can be extradited if while in Rhode Island or a third state he set in motion anything that was the direct cause of the death in Massachusetts. He shot across the line from Rhode Island into Massachusetts thereby causing the death of Y.

404.

Q. As captain of a division, state what supervision you would give to an incorporated club which is conducting boxing shows.

A. I would investigate to find out that the club was properly licensed to conduct such shows and in the building or place specified in the license; that the rules of the Fire, Health, and Building Departments were being lived up to; that the club did not have a show on Sunday, or did not have more than one each week unless on special permission; that no boxer under 18 engages in any contest; than no minor under 16 years is admitted. All professional boxers, managers, seconds, referees, timekeepers, judges, and physicians must be licensed by the Boxing Commissioner. No bout over 10 rounds in 24 hours shall be permitted, unless it is the championship bout; rounds must not be over 3 minutes, boxing gloves not less than 6 ounces. No person shall be admitted without a ticket unless he is a police officer on duty, member of the Boxing Commission or other officials who are to officiate at the exhibition. The policeman on duty here should preserve order and protect the contestants and referee from molestation by spectators, etc.

405.

Q. Give in full the symptoms of sunstroke.

A. The cause of sunstroke is too much exposure to the sun's rays. Symptoms: headache, dizziness, oppression, and sometimes vomiting. The skin is hot, dry, and the face flushed. Pulse rapid and full. Temperature high and in severe cases unconsciousness.

Remove to a shady place, remove clothing. Lay on back with head and shoulders a little elevated. Apply cold water, ice, etc., to the head. Give cold bath, and rub the body. Do not give stimulants.

406.

Q. Parks, a police officer, illegally arrests Jones. Jones submits to the arrest peacefully; later he makes an attempt to escape. Parks aims his revolver at Jones and commands him to stop. Jones fails to do so; Parks then fires his revolver at Jones and wounds him. Jones then draws his revolver and shoots Parks dead. What crime has Jones committed? Reasons.

A. No crime. "Jones was illegally arrested" and he had a right to regain his liberty. Parks was a trespasser from the beginning. He had no right to arrest Jones; his use of the revolver clearly shows that Jones's life was in danger, and under such circumstances, he was justified in shooting to protect himself, and the killing of Parks was also justifiable or excusable.

407.

Q. What is a sheriff? How is he appointed and what are his duties?

A. A sheriff is the Chief Executive Officer of the County. He is a peace officer empowered to keep the peace, execute the processes of the courts and county commissioners, and perform other duties prescribed by law. He is elected to office by the vote of the people every 6 years. See chapter 37, section 1.

408.

Q. What is a constable? How is he appointed and what are his duties?

A. A constable is an inferior officer appointed to keep the peace. He has the power to serve writs, levy executions, etc., issued by a court or justice of the peace. He has power to act in criminal and civil matters. Constables are appointed by the Mayor in cities and elected at the town meetings in towns. See chapter 41, section 91.

409.

Q. What advantage is a state policeman in a rural district?

A. The state policeman is of great advantage in the rural district because many of these districts have no organized police force. If they have a police force, it is so small that it cannot take care of all criminal matters that come up and in many cases they rely on the State Police. Then again, the state police are not confined to any particular city or town, and if necessary they can follow criminals to any part of the state or call upon one of their units to look after the criminals without any red tape. The rural policeman has also the advantage of trained experts at his disposal when the state police are called in on serious crimes, and this at no expense to the particular town. Then again, the growth of traffic has gone beyond the growth of police departments, especially in the rural districts, and they must rely upon the state police for help and control of this problem. In enforcing the game laws, preventing forest fires, escorting public officials across the state, etc., the state police have already made a name for themselves.

410.

Q. A quantity of Manila rope has been stolen from a large firm doing business in Boston, and a reward printed in the city papers has been offered for the return of the goods, or for the arrest and conviction of the thieves. If a member of the force should locate the stolen goods in a junk shop on your division, state what advice or action you would take, including any investigation you would cause to be made, and what police procedure you would take.

A. I would find out if the junk dealer were licensed. I would get permission from the Police Commissioner to have the officer examine the junk dealer's books to ascertain from whom he bought the rope, the time, date, etc., and the description of the person selling the rope. Locate this person, and if he could not account for his possession of the rope legally, I would have the officer apply for a warrant for his arrest for the larceny of the rope. If he was a minor, or if the rope was bought at a price that would show that the junk dealer knew it was stolen property, apply for a warrant for such junkman for "receiving stolen goods" and complain of him also for violation of the rules of the police commissioner concerning junk dealers, and complain of him under a city ordinance for buying from minors.

If the firm desired to give the officer a reward, I would instruct the officer not to take it unless the firm had been granted permission to give it to the officer, by the Police Commissioner.

411.

Q. A patrolman telephones to you that he just observed a duly licensed junk collector purchase from an employee of the City Hospital, 2 chairs, 2 tables, 2 mattresses, 2 beds, and 2 rugs. What advice would you give the police officer and what would you do yourself?

A. I would advise the officer to investigate the matter to see if the attendant had stolen the articles named; if so, to put him into court for the larceny thereof. Also, I would tell him that it is unlawful to use in the manufacture of any article, bedding or upholstered furniture, or sell or offer or expose for sale or for use in the making or renovating of any such article, any material which has previously been used in or about a hospital or on or about the person of any one having an infectious disease, nor shall any person sell or offer for sale any such articles containing materials which have previously been so used. If I believed that any provision of the above law is being violated, I would instruct the officer to make a case against him, and I would notify the Health Commissioner of such violation. Chapter 94, section 270 to 277.

412.

Q. (a) A captain of a barge was assaulted by a tugboat captain. One day later the barge captain died, In the meantime, the tugboat captain left the waters of New York for Massachusetts with his boat. Detectives of the New York Police Department overtook the tugboat off Cape Cod by aeroplane, and stopping the tug, boarded her and took the captain off and brought him back to New York. Were extradition proceedings necessary?

(b) Under what circumstances would a statement made over the radio be considered criminal libel?

A. (a) If the captain of the tugboat was within the three mile limit when his boat was stopped and the arrest made, extradition is necessary. Inlets and bays within the tidewater of the ocean are within the jurisdiction of this state. If the captain were outside the three mile limit on the open sea, no extradition is necessary, except for U.S. Prohibition Laws, which take in everything up to twelve miles. He could be tried in New York no matter how he was brought back.

(b) In this case, there is no writing and publishing of the slanderous statements, which is required in criminal libel. If A gave the announcer a written slanderous statement concerning some one, he would be guilty of libel in giving such written statement to the announcer.

413.

Q. Hop Lee, a Chinaman, on January 27, 1931, committed a murder in Washington, D.C. Shortly afterwards, he was apprehended by a Boston Police officer. Describe in detail the necessary steps to be taken before he can be turned over to the Washington Police.

A. Washington, D.C., is a district apart from a state jurisdiction, and therefore, the usual method of Governor's warrant and extradition would not apply. The City of Washington, D.C., has a police force. The jurisdiction of the crime would be a governmental function and should be handled by the U.S. courts. A warrant could be issued by any U.S. District Court, and the Chinese citizen would be delivered by them to the Washington, D.C., authorities. However, as our courts will not issue a warrant in this case, I would notify the Federal authorities, who would apply to their courts for the warrant, and I would then turn him over to them, to await the proper officer and papers from Washington, D.C., to bring him back. The fact that he is a Chinese citizen would be taken up by the Secretary of State with the Chinese Ambassador as to his receiving a fair trial, etc.

414.

Q. Name the classes of business that are restricted from doing business with children, and the reservations placed on each.

A. Pool Rooms	(Shall not permit minors
Bowling Alleys	(to enter such places with-
Billiard Rooms,	(out written consent of
Sippio Tables	(their parents.
Penny Arcades	(Not to employ minors under 16

Theaters or Movies not to allow children under 14 to enter after 6.00 P.M. without being accompanied by parents, guardians, or adult friends. Shall not allow children under 15 to take part in shows, etc., unless for charity, school, or religious purposes.

Dance halls, skating rinks, etc., not to permit children under 17 to enter unless accompanied by parents, guardians, or adult friends, between 6.00 P.M. and 6.00 A.M.

Second hand dealers, junk dealers, pawnbrokers, auctioneers, etc., are not to do business with minors.

Cigarettes, cigars and tobacco. Not to sell cigarettes to a minor under 18 or give them to him, unless the person so doing is the parent or guardian. No person shall sell or give to a minor under 16 tobacco in any of its forms, unless he is a parent or guardian.

Liquor dealers are not to employ anyone under 21 to handle liquors, and not to sell to a minor.

Boxing clubs shall not admit a minor under 16 years, and are not to allow a contestant to enter in a match under 18 years.

Dealers in weapons and ammunition are not to sell a revolver to a minor (can't get a license to buy), not to sell ammunition to a minor under 15 years, nor to any minor unless he has a license to carry a revolver.

415.

Q. Describe clearly and comprehensively the laws governing the conditions under which lawful search and seizure may be made.

A. The Constitution of the United States and Massachusetts prohibits unlawful search and seizure and provides that persons, houses belonging to persons, also buildings belonging to them, are immune from the same; that no warrant of search shall be issued except upon probable cause setting forth, supported by oath, or affirmation, a description of the person, the place and the property to be searched for. There must be reasonable grounds to suspect such property is the proceeds of a crime, has been used or is about to be used in a crime, and will be found on the premises described. Decisions hold that at the time of a persons's lawful arrest, his person and immediate premises may be searched without a warrant.

416.

Q. Edwards, a thief, entered the Crown Jewelry Shop at noontime and stole a $12 gold watch from a show case. Patrolman Jones saw him and gave chase, but Smith,who was standing nearby, purposely tripped up the patrolman so that he fell. Edwards, meanwhile, escaped.

(a) What crime did Edwards commit?

(b) Was Smith an accessory?

Give reasons.

A. (a) Edwards was guilty of the larceny of the watch. It being taken without force or violence and valued at $12, the offense is a misdemeanor.

(b) Smith was not an accessory, the crime being a misdemeanor. He is equally guilty with Edwards of the larceny, because Edwards being still in the commission of his crime when Smith tripped the policeman, and the case being a misdemeanor, the ruling is that anyone who is in any way concerned in the offense is equally guilty with the perpetrator. Smith is also guilty of an assault and battery upon the officer, if the officer was seriously hurt.

417.

Q. Give the four elements necessary to make any act a criminal offense.

A. (1) The crime must be a wilful act or omission.

(2) It must be one for which the law prescribes a penalty enforced by the State in its own name.

(3) The person committing or omitting it must be criminally capable or responsible for his act or omission.

(4) There must be present a criminal intent.

418.

Q. A police officer reports to you, his lieutenant, that there is an exhibition of dog fighting being given in a building on his route and that he has been denied admittance. What advice would you give the officer and what would you do?

A. I would advise the officer that he had the right to break into any place where there was an exhibition of dog fighting going on, without a warrant, arrest all persons present and seize the dogs, holding them in custody until disposed of by the court. If possible, I would send extra men to help him, including a sergeant. Those arrested would be charged in court with "being present where there was an exhibition of fighting of dogs". I would have the arresting officer apply for a seizure warrant to bring dogs before the courts to be forfeited and abide by the decision of the court as to the disposition of the dogs. 272 - 89-90-91.

419.

Q. What public entertainments, if any, may be conducted without first obtaining a license therefor?

A. Entertainments by religious societies in their usual places of worship for a religious or charitable purpose, or entertainments given in school buildings for the benefit of the pupils, under supervision of their teachers, or entertainments in a private dwelling unless in apartment holding 400 or more persons. 140 - 182.

420.

Q. When may a witness testify as to his opinion?

A. When he has qualified as an expert on any subject that is under discussion or important as evidence before the court.

421.

Q. What special types of laws should an officer be familiar with relating to juveniles?

A. All laws relating to juvenile delinquency:

(1) Places where children are prohibited from entering and remaining unless accompanied by parents or guardians.

(2) The responsibility of persons in charge of such places.

(3) The types of work that children are prohibited from engaging in.

(4) Their attendance at school.

(5) The responsibility of parents and guardians as to the care and supervision they should exercise over the acts of children.

422.

Q. Where a crime has been committed, what persons would be likely to be able to give you information that will help you in arresting the guilty party or parties?

A. The following persons would be of great help in solving crime:

(1) A person who saw the crime committed or attempted.

(2) A person who by reason of friendship or association with the perpetrator would be in a position to suspect him.

(3) A person who furnished the weapon or tool used in the crime.

(4) A person who bought or was solicited to buy the proceeds of the crime.

(5) A person who saw the perpetrator in the vicinity of the crime, or on his way to the vicinity.

(6) A person who would be cognizant of a well-defined motive which would cause suspicion to be attracted toward the guilty party.

423.

Q. (a) What is meant by a "bucket shop"?

(b) What is meant by "bucketing"?

A. (a) Any place where gambling is allowed on the future market quotations of stocks, securities, etc.

(b) "Bucketing" is the making of any contract on a customer's order respecting the buying and selling of stocks, securities, etc., on margin or credit, where the such buying and selling is pretended and both parties intend there shall be no bona fide actual sale or purchase of such stocks, and such transaction is to be settled on the basis of public market quotations of such stocks or securities.

424.

Q. When would the making or selling of a lottery ticket be a felony?

A. Whoever makes or sells, or has in his possession with intent to sell, exchange, or negotiate, or by printing, writing, or otherwise assists in making or selling, or in attempting to sell or exchange or negotiate a false or fictitious lottery ticket, or any share thereof, knowing the same to be false, shall be subject to penalty of S.P. 3 years. 271 - 12.

425.

Q. Does a morbid criminal propensity excuse a person in committing a crime?

A. No. This is not a defense for the commission of a crime if such person is capable of realizing the wrongfulness of his act.

426.

Q. What do you believe would be the effect on police work of the following: Giving immunity to criminals who confess and aid the state?

A. In some instances the effect is good. For instance, if a man is a first offender, shows a disposition to reform, and can give valuable information which will result in the conviction of others and the restoration of property. which would not otherwise happen, it may be a good thing to grant him immunity.

However, to make a practice of doing it as a general proposition would have a tendency to increase "frame ups" and encourage criminals to commit perjury with hope of going free and sending someone else to jail. Nevertheless, it would aid the state in the apprehension and conviction of more criminals and the recovery of additional property.

In crime compromising, it is better to convict some and recover the property than to permit all to escape. It relieves congestion of courts and persons. It would create a distrust among criminals and reduce gang crime, because many criminals would be afraid to take chances because of informers. Moreover, it is the only way to obtain convictions in many cases. But in Massachusetts no one has the authority to guarantee anyone immunity for his crime.

427.

Q. State the facts necessary to convict a person of unlawful possession of narcotic drugs.

A. (1) Certificate of the State Analyst that it is a narcotic drug, and the name of said drug.

(2) Competent evidence that it was found in possession (constructive or actual) of the accused.

(3) Evidence that the accused was not authorized by law to possess it.

(4) That the accused had more drugs than he was authorized by law to possess.

428.

Q. Who may lawfully possess a hypodermic needle?

A. A manufacturer, wholesaler or retailer of surgical instruments, a pharmacist, physician, dentist, veterinarian, embalmer, nurse under orders of a physician, persons with a certificate of a physician under section 209 A., a common carrier carrying such articles between the above named, a police or public officer when held as evidence, or a messenger or employee of the above named, when lawfully in his possession in the course of business.

429.

Q. Suppose A fraudulently connects different parts of several bank notes in such a manner as to produce one additional note, with intent to pass all of them as genuine. Would this be counterfeiting? Would it be a crime? If so, what?

A. Whoever makes up such bank notes with intent to pass as genuine shall be guilty of forgery, in a like manner as if each of them had been falsely made or forged. 267-24.

430.

Q. Why should a patrolman exercise caution in making an arrest?

A. Because of the injury to an innocent person to be placed under arrest, and second, because the officer is liable if the arrest is false, unless he was simply obeying orders of some other officer, not knowing them to be false.

431.

Q. What do the City Ordinances require respecting the following matters?

(a) The placing of building material in the street.

(b) The speed of animals and vehicles.

(c) Bells and noise-making instruments in the street and on vehicles.

(d) The removal of snow and ice from sidewalks.

A. (a) Permit from the Commissioner of Public Works. The contractor or builder must not use more space than authorized, and must make the street safe for public travel, by placing lights, guards, etc.

(b) No person, having the care of a horse or other beast of burden, carriage or draught, shall drive, or ride, or permit such animal to go at a greater rate of speed than seven miles an hour in a public street, except in wards 18, 19, 20, 21, and 22, or in a public street in said excepted portion of the city at a greater speed rate than twelve miles an hour.

(c) No person, other than musicians in a lawful parade, itinerant musicians licensed by the police commissioner, shall in any street, except as a warning of danger, ring a bell, or use or cause to be used, any musical or noise-making instrument. While there is snow or ice covering a street, no person shall drive an animal-drawn vehicle unless there are three or more bells attached to the shaft or pole or harness thereof.

(d) No owner or tenant of an estate abutting on a sidewalk shall place or suffer to remain for more than three hours between sunrise and sunset, any snow upon such sidewalk, or any ice thereon, unless such ice is made even and covered with sand, sawdust, or ashes to prevent slipping, nor shall such snow or ice be placed in a street outside of the sidewalk unless it is made even at the time of such placing.

432.

Q. What problems do the foreign element create for the police?

A. The large majority of the foreign element are poor and ignorant; they remain in the city in settlements of their own, never become Americanized, and live under conditions similar to those of their own country.

Naturally their struggle for existence is a hard one under these circumstances, as they do not speak, read, or write our language, and do not understand our methods of doing business. They are often the prey of certain politicians, labor leaders, and members of their own race who use them to gain their own selfish ends. This causes them to be ever ready to take part in strikes, riots, and crimes of violence and even anarchy. The majority of these people are simple peasants who never lived in a city, and the city life of America is too fast for them, which results in many of them practicing prostitution, gambling, illegal narcotic selling, and violation of the liquor laws.

They are always suspicious of the police, or members of the government, and rely on their race leaders for advice when in trouble, which advice is often given by unscrupulous persons who are the direct cause of their falling into bad habits, etc.

433.

Q. John Kelley was tried and convicted of an assault and battery in the Lower Court and he appealed. He gave bail and was defaulted by the Superior Court. Could he be convicted and sentenced for his offense, even though he did not appear in court to answer to his appeal?

A. Yes. If he fails to enter and prosecute his appeal, he shall be defaulted on his recognizance, and the Superior Court may sentence him for the crime he was convicted on, as if he were convicted in said court. 278 - 24.

434.

Q. Define the following words in connection with disease: (a) Malignant (b) Infectious (c) Contagious (d) What diseases do the police report?

A. (a) A malignant disease is one likely to cause death to a person afflicted with it; it is usually a violent disease that carries a person off quickly.

(b) An infectious disease is one communicated to others by germs carried in the atmosphere, water, etc.

(c) A contagious disease is one where the communication is caused by touching or coming in actual contact with the germs.

(d) The patrolman is required to note all cases of contagious diseases on his route, and the captain is required to make a written report of such cases to the Superintendent.

435.

Q. What is the advantage of the present automobile insurance law in Massachusetts from a police standpoint?

A. It removes reckless drivers from the streets, because they cannot get insurance. It removes all old and defective automobiles from the road and makes employers more careful in selecting their drivers. Accidents are greatly reduced because all drivers are more careful. It means that less time and attention of the police is required, so that police can attend to other duties. Less cost in courts in summoning witnesses, complainants, etc., is another factor. The cost of insurance will deter many people from getting automobiles, and in this manner lessen traffic congestion in our city streets.

436.

Q. State what you consider the chief difficulties in the enforcement of the gambling laws, and what you would do to reduce gambling on your division. What is its effect on police work?

A. Most people are of the opinion that it is an infringement on their personal rights and, as a rule, they are not in sympathy with all gambling laws. The average gambler is looked upon by most people as a decent citizen. Citizens will not divulge information relative to gambling. It is difficult to get evidence, as it is practiced in secrecy. Persons conducting gambling establishments constantly move and employ lookouts. Profits are large, and the law is very technical.

Gambling is attractive tc most criminals. It gives them a chance to become acquainted, organize, and plan crime. Many gambling places are conducted by ex-convicts. Owners are sometimes backers of criminals. They will buy loot, permit weapons to be hidden, etc., on their premises. Persons commit crime in order to get money to gamble. It has a bad effect on youth, and is a clearing house of criminals and leads to all kinds of vice and crime.

As commanding officer, I would make a careful survey of all gambling joints or suspected places, their proprietors, and owners of such buildings. I would instruct my men on the laws, methods and characteristics of gamblers. I would warn my men to watch all suspected places, making notes in their pocket manuals for future reference. I would supervise all work of the men and their reports, seek cooperation of the owners of the buildings, and at the proper time, apply for search warrants, make raids, and arrest the guilty parties.

437.

Q. If in searching a certain grocery store on a search warrant for liquor, you find 10 cases of "paregoric" in 2-ounce bottles, what action would you take?

A. I would not seize the "paregoric". I would make inquiries of the grocer if he had a permit for a retail drug business; if not, I would put him into court for "keeping a retail drug business without a permit to do so". This is not a narcotic drug under the law unless it contains more than 2 grains of opium. "Paregoric", the way it is put up now, contains less than this amount. The grocer could also be complained of for the unlawful sale of the same, if he sold or offered it for sale, provided he was not a registered pharmacist. See Chap. 112 sect. 30-35-38 (Not to be sold as a beverage).

438.

Q. A is the keeper of a lodging house, and two girls frequently bring men to their rooms for an immoral purpose. You are unable to prove any unlawful conduct or catch them in an immoral act. What action would you take?

A. If the keeper, A, has knowledge of such immoral acts or if he is required to keep a register and he knowingly lets these rooms to these girls at divers times during a period of 30 days, with different men, and such rooms contain a bed or a couch, I would put him into court for "knowingly letting his lodging house to be used for an immoral purpose". I would look over the register and see under what names the girls and their men friends registered. If they used false names, I would apply for a summons for their arrest for violation of the "true name" law. 140 - 26-27-28-29. The person allowing them to register under a false name also is liable under 140 - section 29. I would report the keeper of the lodging house to the licensing board for action.

439.

Q. As a lieutenant in charge of handling a crowd watching a large fire, you experience considerable trouble in restraining several men from entering the roped area. There is no evidence of interfering with the conduct of the firemen or apparatus. The annoyance is considerable, and you have about decided to arrest the offenders. State in detail why this can or cannot be done, and if you make an arrest, what would be the charge?

A. As near as I can dope this out, the police have the right to keep all persons out of the roped area. It is up to them to keep them out, and they may use any reasonable force necessary to accomplish this. If the crowd in any way starts to force their way in, the police must force them out, and if it goes any further than this, it becomes a disturbance of the peace, a riot, or an assault on the officer, etc. At common law, there is such a crime as "interfering with an officer in the discharge of his duty", but the courts do not pay much attention to it.

440.

Q. In making your rounds as sergeant, you notice a crowd of men and women dancing in a hall, which for a long period has been idle. You enter and find Thomas Brown who is directing the dance and who claims to be the owner of the hall. In answer to your inquiry as to his being licensed, he answers, "No", but offers you $50 if you will not interfere, and promises to apply for a license the next day. What would be your course of action?

A. I would immediately stop the dance and order the dancers out of the hall. I would place Brown under arrest for "offering a bribe to a police officer" and complain of him also for running a dance hall without a license.

441.

Q. A man approaches you, a police sergeant, on the street and tells you the following story: He has just alighted from a street car, and he tells you that his watch has been stolen from his pocket. He paid no attention to his fellow passengers and can give you no possible clue to the thief. What advice would you give him?

A. I would take the man's name, address, and general description of the watch, the time of the theft, and the particular line from which he had alighted. I would question him as to whether or not he had got on the car at a crowded spot, and whether or not he noticed anyone crowding or jostling him. I would send in a report of the theft of the watch together with any other information I could ascertain. I would have the man go to Headquarters to look over the pickpockets' pictures for the possibility of recognizing some one of them who may have been on the car. If I could get any witness to identify or give a description of the thief, I would apply for a warrant for him under his own name, or the name "John Doe". I would take steps to have the particular line of cars watched for further stealing and possible capture of the thief or thieves, and carefully scrutinize pawnbrokers' reports for the watch, if pawned and who pawned it, for the capture of the thief.

442.

Q. When has a police officer the right to arrest without a warrant where there is no statute covering the same?

A. A police officer has the right to arrest for any felony at any time, whether a statutory or common law offense. He also has a right to arrest for any misdemeanor committed in his presence amounting to a breach of the peace. For any statutory misdemeanor not amounting to a breach of the peace, there is no authority to arrest without a warrant, unless it is expressly provided for by statute.

443.

Q. While making your rounds as a sergeant about 2.30 Sunday morning, you notice a crowd dancing in a public hall.

(a) What would be your procedure in this case?

(b) Suppose it were a private home, what would be your procedure?

A. (a) I would immediately enter the hall and take the names of all persons present, those taking part in the dance, and the promoters, proprietors, etc. I would complain of those being present for such crime, for those taking part in the dance, and for the proprietor, promoter, or persons setting up such dance for Maintaining a certain Public Diversion which is prohibited. See G.L. 136 sect. 1-2-3. I would report such proprietor to the Licensing Board for action.

(b) In case of a private house, unless they are charging admission it is not a public diversion, therefore, the only charge that could be maintained would be a "disturbance of the peace" and this only when several of the neighbors complained to him about it.

444.

Q. Mary White was just under 16 years of age. John Jones was over 17 years, and he induced her to run away with him to get married, but they could not. What crime for Jones?

A. Abduction for a clandestine marriage, M. If he had unlawful sexual intercourse with her, he would be guilty of rape and also abduction for unlawful sexual intercourse. Both felonies. Mary would be a delinquent child; to wit, being a runaway.

445.

Q. A stores his automobile with B, the owner of a garage, for the winter. B, unknown to A, rented the car to C for a day. C drove off with the car and never came back. Of what crime is B guilty?

A. There is no larceny or embezzlement here because B had no intent to deprive the owner permanently of his ownership in the auto. He is guilty of "using the car without authority". (Auto Law).

446.

Q. Jones hires a young man to drive a truck loaded with alcoholic liquor and tells him not to stop in case of an accident of any kind. The liquor is being transferred unlawfully. The young man, in driving the auto as ordered, strikes a machine, one of the occupants of which is injured. What charge would you place against the owner Jones?

A. Jones is guilty of the driver's crime of leaving the scene of an accident without making himself known. If the damage exceeds $15 he would also be an accessory before the fact to the driver's crime of wilfully and maliciously destroying personal property. Felony, 3 to 5 years, chapter 266 - 127. Mass. 257 - 379.

447.

Q. A person well known to a police officer who has him under arrest without a warrant for using profanity in a public street, appeals to you as a sergeant that his arrest is unlawful. What would you advise or order in this case?

A. In Boston, we have a City ordinance against using profanity in a public street. Under the authority given by Chap. 272, sect. 59, we have the right to arrest such a person without a warrant, provided he is unknown to us. In this case, the officer was not justified in arresting without a warrant if the man were known to him. I would advise the officer to take his name and address and let him go about his business, then apply to the courts for a warrant against him for profanity. You must live up to the statute in making such an arrest.

448.

Q. A leaves an infant two years of age at the home of B for adoption. B is an unsuitable person. How would you proceed and what would be your course of action before the court? State in full.

A. A, if the parent and his wife were willing, has a right to leave his child with anyone for adoption, provided such person is a proper person to receive it. If the child is under two years old, such person must report his receiving of the child within two days to the Department of Public Welfare. If the child is over two years, the receiver must make reasonable efforts to find out if the child is legitimate, and if he believes such child to be illegitimate, he must so notify the Department. If this person is not a proper person to receive the child, I would immediately report this fact to the Department of Public Welfare, who would investigate and proceed against the child as a neglected child. I would be prepared to give my reasons for suspecting that this person is not a proper person to receive the child, when the case came up in court.

449.

Q. Two young patrolmen on your division are charged with clubbing a number of young men and shooting one to death. They claim their action was justified. In the investigation of this case, state in detail what you would seek to ascertain in order to justify their acts, you being the captain of the division.

A. I would investigate to try to ascertain if in the first case they were acting lawfully; that is, if they were attempting to lawfully apprehend the young men and if they (the young men) physically resisted the patrolmen's efforts to do so.

In the investigation, I would try to interview disinterested persons with a view to learning if the patrolmen were the aggressors or were merely using their clubs to subdue the young men who were resisting an arrest.

As to the killing, I would seek to ascertain if it was done under the following circumstances:

(1) To prevent the death or serious injury to the policemen themselves.

(2) To prevent the death or serious injury to some other person unlawfully attacked.

(3) To prevent the escape of a convicted felon or one who has committed a felony in my presence.

(4) To prevent the rescue of a prisoner lawfully arrested where all other means failed to prevent it.

(5) In lawfully suppressing a riot or a breach of the peace where ordered to use arms by the proper authorities. If so, I would so report it to the court; if otherwise, I would put a charge of murder or manslaughter as the case may be.

450.

Q. Recently a "moving talking picture" was made of a criminal making a confession of his guilt in a crime that he had committed. Discuss the acceptability of the confession as evidence.

A. In every case it is the duty of the court to determine as a matter of law the admissibility of evidence. If the confession was not made voluntarily, the court must reject it. If there is a conflict, the admissibility may be left to the jury as a question of fact.

A confession is inadmissible if it were made under the influence of fear, produced by threats, or made under a stipulation of any officer that he will receive a lesser sentence or immunity. A confession is not enough to convict without other proof of the crime.

A confession may be in the form of a letter or several letters to different persons. It may be oral or reduced to writing and signed by the accused. It is immaterial as to the form of the confession so long as it is expressed in words.

The film records spoken words by the accused on a sensitized film. There is no difference between such recording and that of a stenographer making notes, or a police officer taking it down in shorthand or longhand, and it may come under a general definition of a writing.

The picture would show all conditions of the confession, whether or not the defendant were "rough housed" or forced to confess and would record every word exactly as uttered.

On the other hand, the camera could not show what happened to the prisoner before he entered the room. Also it would be possible to fake the confession. There are many tricks in retouching, double exposure, and substitution of lighting, etc., with a camera. But on the whole, I believe the film would be admissible for what it is worth when properly identified by those making and hearing it.

451.

Q. Give your version of what the rule "they shall perform their duty with zeal, courage, discretion, and fidelity" means.

A. Zeal means to apply energy and earnestness in the performance of police duty. A strict, agressive, and vigorous application to duty is what it means.

Courage means fearlessness, prowess, daring; to be brave when a trial comes; intent to make the best possible fight for law and order.

Discretion means prudence and good judgment; wise conduct and management of all police problems.

Fidelity means loyalty, honesty, and integrity; an obedient and faithful adherence to duty in all that it implies.

452.

Q. As captain of a division you are notified by a citizen that at 11.00 A.M. a 10 story building, occupied as a factory, is in danger of collapse. State in detail what you would do.

A. I would immediately go to the building in question with reserves, and if it was about to collapse, notify the tenants and occupants of their danger and order them out. Notify the Building Department and the Fire Department who might take measures to prevent its collapse. I would take measures to have fires drawn, gas and electricity shut off, and rope the building off. If the building fell and anyone was injured, I would provide first aid, send for an ambulance, have the injured cared for, the dead, if any, removed to a proper place, and notify the Medical Examiner. I would place sufficient guards around the building to prevent further accidents; investigate to determine if anyone was liable or negligent so as to be the cause of the accident. Also, I would make arrests, if necessary, make necessary reports to the superintendent and enter all facts in the journal.

453.

Q. State briefly what instructions you would give your officers regarding the suppression of houses of ill fame.

A. I would instruct the men to look out for houses of ill fame on their particular routes, note the character of the people who live in such houses, and the kind of people who frequent them. I would have them report such places to the captain or sergeants immediately; to find out the owners, proprietors, and inmates if possible; to enter all complaints, incidents and evidence in the pocket manuals. I would instruct the sergeants as to the evidence necessary to convict and obtain a search warrant, and how to conduct a raid. I would instruct the patrolmen and sergeants what to look for in a raid and the kind of evidence to secure to convict. If this was not enough to drive the house out of business, I would have a patrolman placed in front of the house and warn all persons who are about to enter of the character of the house and the liability of its being raided.

454.

Q. What proofs are required for a conviction for murder or manslaughter?

A. No person can be convicted of murder or manslaughter unless the death of the person alleged to have been killed, and the fact of the killing of the defendant as alleged, are each established as independent facts, the former by direct proof and the latter beyond a reasonable doubt.

Murder requires proof (a) that the accused killed the person named by certain means as alleged.

(1) That the person alleged to be killed is dead.

(2) That he died as a consequence of an injury received by him.

(3) That such injury was the act of the accused.

(4) That the death took place within a year and a day of such act.
(b) That such killing was with malice aforethought; or with extreme cruelty or atrocity, or in the commission of a felony.

Manslaughter requires the same proof as murder except that it was done without malice aforethought; as a result of an adequate provocation or by misadventure in the commission of an unlawful act, not felonious.

455.

Q. M fired a shot at B with intent to kill him. The shot missed B and killed B's horse. Of what crime or crimes is M guilty? Could he be convicted of maliciously killing B's horse?

A. He could not be convicted of maliciously killing the horse. He had an intent to kill a man, but this could not be used to show intent to kill a horse. Rex vs. Kelley (p. 182) 1832. Monaghan Assizes, Ireland. Crawford vs. Dix. 186.

He could be convicted for assault with intent to kill B, and he would be responsible civilly for the cost of the horse.

456.

Q. Name four different cases in which it would be legal to take finger prints or Bertillon measurements.

A. When a person is convicted of a felony and sentenced to a penal institution; when a person is convicted of a felony and not sent to a penal institution on the order of the court; when a request is received by a jailor, keeper of a lockup, warden of a prison, etc., from any authority, either by circular or otherwise, to assist in the apprehension of a fugitive from justice; the finger prints of all persons convicted of felony or larceny shall be taken by the person in charge of any state or county prison. 127 - 23-25-26-27.

457.

Q. What kinds of investigations are involved in the detection of crime?

A. Inquiry into the technique of the perpetrator used in the commission of this crime.

Inquiry into the corpus delicti and the res gestae.

Technique of the police employed in the gathering of evidence, tracking of the criminal and in the solution of the crime.

Methods of sorting, classifying, and comparing results; included are record files, identification systems, registers, indexes and assisting scientific agencies.

458.

Q. B was intoxicated and was playing with X, pushing him about in jest. He ran against a woman and knocked her down. She died from the injuries received or sustained from the fall. What crime has B committed?

A. He is guilty of drunkenness. The playing with X was not a criminal act and it was not against X's will or consent. Therefore, there was nothing illegal or grossly negligent about the act. The death was an accident. Reg. vs. Bruce (p.566) 1847 2 Cox C.C. 262.

459.

Q. D assaulted a woman with intent to commit rape. She offered him money to desist; D took the money and continued his original purpose. What crime for D?

A. He is guilty of robbery in taking the money, and also rape if he completed the act. The woman would have kept the money if D had not feloniously attacked her. Rex. vs. Blackham (567) C.C.R. 1787.

460.

Q. Two boys went into a field and each shot at a target. One of the shots killed a little boy. It was not apparent which one of the target shooters had fired the fatal shot. What crime?

A. Both are guilty of manslaughter. They were doing a thing dangerous to human life. They had a duty to take proper precautions to prevent an injury to human life. The doctrine that all persons engaged in a common enterprise are equally guilty, applies here.

461.

Q. What systems of criminal identification have been developed in Europe?

A. (a) Anthropometry, the science of bodily measurements, known as the Bertillon System, the creation of the late Alphonse Bertillon of the Criminal Identification Department, Paris, France, in 1882, who died in 1913. This system is based on the fact that dimensions of certain bony portions of the body do not vary between adolescence and old age. Specific measurements, such as head length, head breadth, middle finger length, foot length and cubit length are selected. Each primary heading is subdivided according to height span, length and breadth of ear, height of bust and eye color. Later, Bertillon added to these measurements his Portrait Parle System of descriptive photography and his method of grouping colors and peculiarly characteristic marks. Some time after, he added finger prints with his own classification system.

(b) Finger prints - largely the work of Sir William Herschal and Sir Francis Galton, although the classification used to make the system workable was the creation of Sir Edward Henry, formerly Commissioner of the Metropolitan Police of London. First used by officials in India, finger prints were introduced at Scotland Yard in 1901. Finger prints are based on the fact that the lines on the surface of the finger tips form certain typical patterns which can be accurately classified. Such patterns appear three months prior to birth and disappear with dissolution of the body after death. No two impressions have ever been discovered to be exactly the same. The Henry System of classification divides finger prints into four types; arches, loops, whorls and composites. Arches are classed with loops; and composites with whorls. The ten impressions are divided into five pairs; right thumb and right index; right middle and right ring; right little and left thumb; left index and left middle; left ring and left little. Only whorls are given numerical weight. When a whorl appears in the first pair, it counts 16; the second pair 8; in the third pair 4; and in the fifth pair, 1. The value of each of the first fingers is totalled and to this is added 1. This becomes the denominator. A total of each second finger of the five pairs, to which 1 is added, becomes the numerator. Primary classifications range from 1/1 to 32/1 and from 2/1 to 32/2 and finally to 32/32, making a total of 1024 combinations. A secondary classification is required to identify large accumulations of primary classification numbers.

(c) National system in European nations of a central clearing house is maintained for all information relative to identification and criminal intelligence. (International Bureau at Vienna.)

(d) Files of photographs according to offenses and according to methods used by criminals - tattoo marks and deformity registers, files of nick-names and aliases, handwriting files, catalogues of newspaper clippings relating to crime and criminals.

(e) Modus Operandi System, known as the M.O. - a scheme by which a code of methods used by professional criminals could be tabulated, particularly in connection with crimes against the property. It has ten headings, viz.: building, place of entrance to building, means, object (property stolen), time, represented self as, tale, associates, vehicle if any, peculiarities, etc.

(f) Distant Identification System - to be used with any finger print system. By the use of numerals, the patterns, ridges, and characteristics of finger prints may be accurately transmitted by a code created by Hakon Jorgensen in 1914, who was subdirector of police, Copenhagen, Denmark. A complete formula for positive distant identification consists of approximately fifty numerals to be used in transmitting by telegraph, telephone, or radio a description of finger prints to distant points, thereby acquiring in a comparatively short space of time information that formerly required days to collect.

(g) The Meldeween System - is a system which requires every individual to report to the police when he arrives in a city. He must report his regular place of residence and his business and establish his identity by papers. His native city has a record of him which includes his criminal record, should he have one. If he moves to another city or village, the police ascertain by correspondence with the authorities of his former place of residence, what his past record has been.

462.

Q. Suppose that the Boston Post is publishing a news bulletin at election time and a large crowd is collecting which obstructs the street in front of the bulletin and threatens to become dangerous. Would this be an offense on the part of the newspaper?

A. If the newspaper just used the bulletin to collect a crowd at election time, it would be no offense, but if this happened every afternoon so that the hindrance of travel was a regular occurrence, the act would unquestionably be indictable as a nuisance. It is the constant repetition of the act which makes it a nuisance.

463.

Q. (a) What is the land area of Boston?
(b) " " " water " " "
(c) " " " total land and water area of Boston?
(d) How many miles of streets in Boston?

A. (a) 45.70 sq. miles including all islands.
(b) 50.70 " " to the three-mile limit and 8 additional sq. miles outside the 3 mile limit. Total 58.70 sq. miles.

(c) Total land area 45.70 sq. miles; total water area 58.70 sq. miles; total land and water area 100 to 105 sq. miles.

(d) 621.72 miles of city streets and about 300 miles of unaccepted streets - total, about 922 miles of street. Population 800,000.

464.

Q. (a) When did Boston become a City?
(b) When was the police force on the present conception authorized?

A. (a) Boston became a city in 1822, under a city charter.

(b) By chapter 123, acts of 1858, the city council was authorized to unite the watch and police departments and establish regulations therefor under the mayor and aldermen. This continued until 1878 when a board of three commissioners was appointed by the mayor and city council. In 1885, this power was transferred to the governor, and in 1906 it was further amended to the appointment of a single commissioner.

465.

Q. The defendant was convicted of the crime of manslaughter for having thrown a brick from the roof of a house, which struck the deceased on the head and killed him. The defendant's age was 11 years. No evidence was offered by the state to prove the defendant's capacity to understand the nature of the act charged against him. Was the conviction properly attained?

A. No. Infants between 7 and 14 charged with a crime are prima facie presumed to be incapable of committing a crime, but this may be rebutted by evidence of the child's capacity. In this case, the state must show that the child at the time of committing the act had full capacity to understand the nature of the act he was doing. In failing to do so, the defendant is entitled to a new trial in this case. If he had reached the age of 14 or over, he is before the courts the same as any person of full age, and it is up to him to prove incapacity.

466.

Q. A statute prohibited railroad companies from obstructing highways with standing trains for longer than a certain designated period of time. The defendant railroad company permitted a train to stand in such a position as to block a highway for a much longer time than the law allowed. The defendant was charged with a crime, and upon trial introduced evidence to show that the delay in removing the train was caused by malicious meddling of a third person who tampered with the air brakes. This was in support of the defense that there was no criminal intent. Is it necessary for the state to prove an intent to commit the crime?

A. No. In statutory misdemeanors criminal intent is not a necessary element in making the crime. But if the reason for the delay was an accident or through the meddling of some other third person and the company was in no way to blame, the company would not be guilty.

467.

Q. The defendant represented to M that he had a warrant for M's arrest on a criminal charge. M, to prevent the arrest, gave the defendant his watch and diamond ring, believing that the defendant was an officer with a valid warrant for his arrest. Did the fact that M parted with his property as an inducement to the supposed officer to violate the law and his duties prevent the defendant's act from being a crime?

A. No. The defendant is guilty of impersonating an officer and false imprisonment. If the defendant demanded of M anything of value, he would be guilty of extortion. The fact that M offered his watch and diamond ring, which would be a criminal act if the defendant was an officer, will not excuse the defendant. In this case, the defendant was not an officer and even though it appears to be a criminal act in so offering the watch and diamond ring, the defendant is not excused.

468.

Q. Give detailed account of what you would do in each of the following cases:

(a) A stranger comes into the station house, and says he is sick and does not know where to go. The doctor who ordinarily is called to the station is present at the time and upon examination of the man, declares he is suffering from small pox.

(b) At 11.30 Saturday night two men who claim to be U.S. Secret Service Agents ask you for two or three men to accompany them to a certain dwelling house on your division in which they suspect that several men are engaged in counterfeiting ten dollar bills.

(c) At 9.30 P.M. a patrolman brings into the station house under arrest two boys under the age of seventeen and states he saw them steal a package of fruit from a fruit store. The parents of the boys are present and wish to take the boys home.

A. (a) I would immediately isolate the man, get in touch with the Health Commissioner for instructions as to what hospital he wanted the man taken to, place myself and those who came in contact with the man under the orders of the Health Commissioner, and try to find out where the man came from and other places in which he may have stayed while in Boston. I would give all such information to the Health Commissioner, and make a report of the whole occurrence on the journal.

(b) I would ask the two men for their credentials, and if satisfied that they were what they claimed to be, I would cooperate with them in any manner possible, and immediately detail the men wanted to accompany them to the house and render any assistance with the exception of serving any warrants or making any arrests (that is the duty of the U.S. men).

(c) I would book the boys in the arrest book and make a written report in the journal for the larceny of the fruit. I would turn the boys over to their parents provided said parents signed a written promise to have the boys at the next sitting of the Juvenile Court. I would instruct the officer to charge them with "being a delinquent child", to wit: larceny of one package of fruit valued at $2.00.

469.

Q. (a) What are dying declarations?
(b) In what cases are they admissible as evidence?
(c) What must be shown to admit them in evidence?

A. (a) Statements made relating to the cause and attendant circumstances of the declarant's own homicide, made by him while in the belief and moral certainty of impending death to follow immediately.

(b) In homicide cases and cases where death results from a criminal abortion.

(c) The declarant must be dead. He must have been competent to make a dying declaration. He must have been actually dying when he made it. He must have believed in his impending death. It must relate to his own homicide, its causes and attending circumstances.

470.

Q. At midnight you see X wielding an axe on the front door of Y's house. Before you can stop him, however, he breaks and enters the house. You catch him coming out of the house with a valuable painting under his arm that he has taken from Y's wall. You know that X is intoxicated. (a) What crime or crimes has X committed? Reasons. (b) Of what importance is the fact that X is drunk in this case?

A. (a) I would arrest X and charge him with burglary and drunkenness. He broke and entered the dwelling house of Y in the night time with intent to commit a felony, and the fact that he could conceive the idea of breaking the door and stealing the painting was prima facie enough to show his intent to commit the crime even if he were drunk. Being drunk in the commission of a crime does not relieve the responsibility unless he was so drunk (and he was not) as to be incapable of forming the necessary intent. He is guilty of the additional crime of drunkenness also.

(b) Burglary is a crime that requires specific intent and drunkenness is a defense if he was so drunk as to be unable to form the necessary intent. He must satisfy the court or jury that he was so drunk that he did not know what he was doing. It is a question of fact for the judge or jury.

471.

Q. (a) What is malice aforethought?

(b) Distinguish between "malice aforethought" and "intent to murder".

A. (a) Generally speaking, it implies hatred or ill-will toward a person; a formed design to do an injurious act to another that is premeditated or planned beforehand. It can be express or implied.

(b) Intent to murder is a specific intent to kill a person. Malice aforethought might be a premeditated intent to murder or to inflict great bodily harm. Malice aforethought is usually a part of an intent to murder.

472.

Q. (a) Where can legal arrests for gaming be made without a warrant?

(b) How is an arrest made?

A. (a) 1. If gaming in a public way or place.

2. In a public conveyance.

3. In a private place where they are trespassers.

(4) Within one mile of a cattle show, military muster, or a public gathering, etc.

(b) Arrests are made by the officer announcing his office, showing his badge, telling his intention to arrest, the charge, and if on a warrant, showing his warrant if he has it in his possession, otherwise in the station or wherever the warrant may be. It is necessary for him to place his hands on his prisoner signifying his taking him into custody unless the culprit agrees to submit to the words of the arrest.

473.

Q. A,who is a stranger to you, comes to you pointing out B,who is also a stranger to you, and tells you that B has just picked his pocket of a pair of gloves. A asks (1) that you get the gloves back from B and (2) that you arrest B at once. What would you do and why?

A. I would stop B and have A make his accusation in B's presence, note B's response to the accusation and circumstances. If I was reasonably sure B had stolen the gloves as alleged, I would arrest him on suspicion of "larceny from the person". I would request A to accompany us to the station to substantiate the charge, and if, after searching B, I found the gloves on his person, or other evidence, I would book him on the charge of "larceny from the person of A" - one pair of gloves valued at ..... If the charge could not be sustained, I would explain to B his right to sign a waiver and be released without going to court, and if he so agreed, I would have him sign it in the presence of witnesses. If he refused to so sign it, I would bring into court, complain of him for "larceny from the person of A, etc.," and explain the case to the judge, who would refuse to grant the warrant. I would then release him. A would receive his gloves back when the case was disposed of. If I decided before arresting B that the complaint was unfounded, I would not arrest B and so report to my superior officer.

474.

Q. A, B, C agree to break into the jewelry store of D in the night time, and they agree that there will be no violence. While in the store, they are interrupted by D, who returns to the store. B, in getting away, gives D a slight push causing him to fall on his head and he died the the next day. (a) Of what crimes are A, B, C, guilty? Give reasons. (b) Give definition of the crimes committed?

A. (a) Breaking and entering a building in the night time with intent to commit larceny. - Murder. They broke and entered the store in the night time with intent to steal jewelry. When they agreed to commit the crime it was a conspiracy, but when the crime was complete the conspiracy merges with the greater crime, it being a felony. They are all responsible for the results of their unlawful act, even though they agreed not to use violence. There was no real violence used, yet a death resulted. They are all guilty of murder. The jury finds the degree of murder and in this case, the crime being punishable by imprisonment in the State Prison for 20 years - 266 - 16 - it is murder in the second degree. This is not burglary, unless part of the store was used as a dwelling house. Breaking and entering in the night time: Breaking and entering a building, ship, vessel, or railroad car the property of another in the night time with intent to commit a felony therein. 266 - 16. Murder: Murder committed with deliberately premeditated malice aforethought, or with extreme cruelty or atrocity, or in the commission or attempted commission of a felony punishable by death or imprisonment for life is murder in the first degree. Murder which does not appear to be murder in the first degree is murder in the second degree, such as when committed in the commission of a felony not punishable by death or life imprisonment.

475.

Q. A is shot by B and goes to a physician for treatment. He asks the physician not to report the shooting, as he does not desire any publicity. The doctor agrees to do as he requests. You receive this information from one of your patrolmen. What would you do? Omit nothing of importance.

A. I would instruct the patrolman that a physician who treats a gun shot wound of any kind is bound to report it immediately to the Commissioner of Public Safety and the local police authorities at once and there is a penalty of $50 to $100 fine on him for failing to do so. 112 - 12A.

I would tell him to go to the doctor's office and get the name and address and pedigree of the injured person, and to stay with him until he heard from me as to whether or not he was wanted. In the meantime, I would get in touch with headquarters and the men of my own division to find out if there had been a shooting anywhere and if this person was wanted, being ready to turn the culprit over to other departments or divisions or handle the case myself if it happened on my own division. I would question the person injured as to how he received his wound, and if he was in danger of dying, notify the Homicide Squad so they could get a dying statement or in an emergency get it myself. I would cause all statements as to how he received the wound to be investigated thoroughly to decide whether or not it was a criminal matter. If he was feloniously attacked by some other person, I would cause the arrest of this person if it happened within my jurisdiction, and have him face the injured person to be identified and accused in person, and booking him on the charge covering the circumstances and facts of the case. If the doctor failed to notify the Commissioner of Public

Safety or the police, I would have him complained of in court for that offense. I would make a complete report of the whole matter and make out the necessary forms, etc., to my commanding officer.

476.

Q. If you found a man on the street who had been assaulted and the party who made the assault escaped, how would you apprehend the person who did the act? Omit nothing.

A. If the person assaulted was badly injured, I would immediately send for an ambulance to take him to a hospital, obtain the name, address, and a good description of the person wanted. I would arrest the guilty party if possible, and bring him before the injured party to be identified. If the person injured was dying, I would be careful to obtain a dying declaration that would be admissible in evidence. Notify his nearest relatives of his injury.

If it was a simple assault, I would take the names of the assailant, the person injured, and witnesses, and notify them to meet me in court and make an application for a warrant for the culprit's arrest.

477.

Q. How could you tell whether blood flowing from a wound is coming from an artery or a vein? What difference does this make in the treatment of the wound?

A. Blood flowing from an artery flows in spurts (like a pump) and very fast; it is of a bright red color. Blood flowing from a vein is darker in color and flows much slower, in a steady stream. The treatment in case of an artery is to apply pressure, i.e., a tourniquet, above the wound; that is between the wound and the heart if there is considerable bleeding. If it is a vein, apply pressure either directly on the wound or towards the extremities, that is, between the wound and the extreme end of the limb away from the heart. The modern method seems to be to apply pressure directly upon or in the wound in either case, and control the bleeding; then, if necessary, apply a tourniquet or not as needed.

478.

Q. A police officer sees a person struggling in deep water, and plunges in clothes and all to rescue him. State your opinion of his action.

A. In my opinion the officer used poor judgment in jumping in with all his clothes on, as the few seconds wasted in removing his outer clothing, shoes, gun and club, would make little difference in saving the life of the drowning person. However, conditions may change this view, for instance, if the person was near some object that would hold him up, such as a log, boat, etc., and there was an extreme necessity of getting him right away, the officer would be using good judgment if he was an expert swimmer and had confidence in his ability, to jump in clothes and all, with a view to helping him to such log, raft, boat, etc. But in a case of this kind, the officer should remember that if he is not an expert swimmer, he would only be endangering his own life and would be of no assistance to the drowning person, if he jumped in to save him.

479.

Q. (a) A pawns his revolver in a licensed pawnshop.

(b) B sells his revolver to X who has a license to carry a pistol.

(c) A licensed dealer in firearms sells a revolver to a minor of 19 years, who has a license to carry a revolver.

Are any of the above cases violations of the law?

A. (a) The pawnbroker is guilty of a violation of chapter 140, section 131 B, which forbids the receiving in pawn of firearms.

(b) B is guilty of a violation of chapter 140, section 128, selling a firearm without being licensed so to do.

(c) The dealer is guilty of selling a revolver to a person who has no permit to buy it. A minor cannot receive a permit to buy a revolver. 140 - 131 A and 123, eighth rule of license.

480.

Q. What evidence is ordinarily required of a police officer in testifying before the courts in a criminal case?

A. (1) Anything that is relevant that he has seen concerning the case.

(2) Anything that is relevant that he has heard (not what some one has told him), such as an explosion, a shot fired, a blow struck. Also what was said in the defendant's presence and his answer to it.

(3) He must produce the property taken into his possession or cause it to be identified, such as the stolen property or the knife, revolver, poison, etc., that was used in the commission of the crime.

481.

Q. A is a servant who has been assigned particular quarters in B's house. During the absence of B, A breaks into the room of B's wife with intent to rape, but before he can accomplish his design, he is frightened away; that is, before he even touched B's wife. What crime, if any, should you charge him with?

A. Burglary - breaking and entering the dwelling house of B with intent to commit rape on Mrs. B. It is not necessary for a servant to break an outside door. The fact that he breaks into any room that he ordinarily has not access to for a felonious purpose is enough to make it breaking and entering. Bishop page 97.

482.

Q. Describe the "Schaeffer Method of Resuscitation"?

A. (1) At the place taken from the water, gas, smoke, hanging, or electrical contact, lay the victim face downward on a flat surface or with head slightly downhill. Turn his head to one side, extend both hands over the head and place one hand under the face to protect his open mouth and nose from dirt. Kneel, straddling one or both knees, facing the patient's head.

(2) Place the hands over the lower ribs, one on each side of the backbone and about four inches apart, thumbs and fingers extended and joined. If the hands are in the correct position, the little fingers of each hand are over and following the line of the lowest ribs.

(3) Move the weight of the body slowly downward and forward for about three seconds - don't slide. Keep arms straight. The shoulders should be behind the hands, so that pressure exerted will be forward. Then snap the hands off, allowing ribs to expand quickly, filling the lungs with air. Swing the body slowly backward to upright position, thus relaxing the muscles of the back.

(4) At the end of two seconds, again place the hands in position and apply pressure, completing one complete respiration in about five seconds, assuring twelve respirations to the minute. Continue the motion until the patient is breathing or until the arrival at the hospital.

483.

Q. What are the rules in the introduction of evidence in a criminal case?

A. (1) That the evidence is relevant to the issue.

(2) That it is not within the rule rejecting hearsay evidence.

(3) That if it is a confession or admission, it is legally admissible.

(4) That where documents are used, the original should be obtained (except where a copy is admissible, such as certified copies of court records of convictions) and that the authenticity has been verified.

(5) That any witness called is legally competent to give evidence.

(6) That the examination of witnesses is fairly conducted.

484.

Q. What are the most usual motives in committing a crime?

A. (1) Greed or gain. (2) Sex jealousy. (3) Revenge or anger. (4) Moral depravity and perversity. (5) Fear of disgrace. (6) Crank delusions.

485.

Q. When could the mayor take charge of or assume command of the police force of Boston?

A. In case of tumult, riot or violence, disturbance of public order, the mayor shall have, as the exigency of his judgment may require, the right to assume command or control of the police, for the time being; but he shall, before assuming control of the police, issue a proclamation to that effect, and it shall be the duty of the police commissioner to execute all orders promulgated by him for the suppression of such tumult and the restoration of order.

486.

Q. What should you be prepared to prove in "Receiving stolen goods"?

A. (1) That the person received the goods alleged to be stolen. (This implies that the goods were in his possession or control.)

(2) That the goods were stolen.

(3) That he had actual or constructive knowledge that the goods were stolen.

487.

Q. What is necessary before a court can take jurisdiction of a criminal case?

A. (1) That such court is legally created and constituted, at least "De facto"

(2) That it has jurisdiction of the offense charged.

(3) That it has jurisdiction of the person of the defendant.

(4) Also, that it has jurisdiction to render the verdict or judgment rendered.

488.

Q. A and B were racing with their autos on Beacon Street and one of the cars struck C and killed him. Both denied killing C, but you have witnesses who saw the accident, but are unable to tell, on account of the similarity of design and make, which car actually struck C. What would you charge them both with and why?

A. I would charge them both with manslaughter and operating so that the lives and safety of the public were endangered, also operating in a race. Both could be convicted of manslaughter because the race was a common criminal enterprise, both agreeing to do it, and therefore, both were responsible for the acts of the other in so doing it. The government need not show which one actually did the act. a. Cal. - 230.

489.

Q. What is necessary before a person has been legally placed in jeopardy?

A. (1) When he has been placed on trial upon a valid indictment or complaint.

(2) That he had been arraigned in court.

(3) That he is being or was tried by a court of competent jurisdiction.

(4) When a competent jury has been impanelled and sworn, or a court having jurisdiction has begun to try the case.

490.

Q. As captain of your division, what instructions would you give to the officers of your command in regard to the enforcement of the Election Laws, both before and upon Election Day?

A. Before election, I would read and explain the laws in the pamphlet "Instructions to Police Officers at Primaries and Elections" and give them instructions to be observant in detecting cases where illegal registration has been accomplished and where illegal voting is being contemplated, getting the names and descriptions of such persons which may be used in such practices and reporting them to the captain for reference on Election Day. On "Election Day", instruct all officers detailed at polling places to be especially careful to preserve order, to preserve the integrity of the ballot, to see that voters are not molested or obstructed or prevented from voting, and that all illegal voters are arrested. I would give special instructions to all officers detailed at elections to report immediately to the station any election officer who is under the influence of intoxicating liquor, any election officer who is violating an election law, and if at any time there are less than four election officers at the polls. I would give them final instructions as to the return of the ballots, the ballot box, the box key, stamps, unused ballots, final returns, etc., and see that each thoroughly understands what is expected of him.

491.

Q. (a) A takes an automobile without the authority of the owner. He abandons the car on the road after stealing a spare tire attached to the rear of the car, valued at $14.

(b) A conceals a motor cycle thief, knowing him to be such.

(c) C, without the authority of the owner, operates an automobile after his license to operate has been revoked.

Which of the above offenses are felonies and which are misdemeanors?

A. All of these cases are felonies punishable by not more than 10 years in State Prison. 266 - 28 as amended by 267 of 1926.

492.

Q. An innholder in Boston desires to conduct in connection with his business of supplying food, a cabaret, dance, or other amusement. How could he legally do this?

A. Innholders, common victuallers, cafes, restaurants, and other eating and drinking establishments require a license from the Licensing Board in Boston to set up, set on foot, maintain, or carry on a concert, dance, exhibition, cabaret, or public show in connection with such eating business. This does not apply to religious societies, entertainments in school buildings, or for charitable purposes. 299 - 1926, new section amending chapter 140.

493.

Q. Give an outline of the instructions you would give your men to prevent loitering and disorderly conduct in the streets of (a) The Italian District. (b) The Negro District.

A. (a) I would direct the members of my platoon to notify any Italians or other persons found loitering or sauntering that they must not obstruct the highways (streets) or offend other users of the streets. I would tell them to make sure that these instructions were thoroughly understood by the Italians, having these instructions given in Italian if necessary. If this warning was not heeded, I would have my men arrest the guilty parties for "Sauntering and Loitering", or "Accosting and Annoying".

(b) I would have the same instructions given to the officers of the Negro District concerning negroes or others sauntering and loitering or accosting and annoying others on the streets. If the warning was not heeded, I would have the officers arrest them or make cases in court against them.

494.

Q. What are the principal reasons why hearsay evidence is not admissible as evidence in court?

A. (1) The person making the original statement is not under oath.

(2) The party injured by the statement has no opportunity to cross-examine the one who made it.

(3) The court or jury has no opportunity to observe the one who made it.

(4) The original statement may have been misunderstood and the jury may be confused by the side issues opened; who was the person making the statement; when was it made, where was it made; what were the exact words used, and so on.

495.

Q. State how the finding of a revolver on the person of a man charged with shooting another would be (a) Direct Evidence; (b) Corroborative Evidence; (c) Circumstantial Evidence; in proving his guilt or innocence.

A. (a) If a witness says he saw him shoot the man with a revolver, and a revolver with a discharged cartridge was found on his person, this would be direct or best evidence as to the revolver, of his guilt. If the witness heard a shot fired and the man was immediately arrested and a revolver found on his person, but no cartridge was fired, this would be direct or best evidence as to his innocence.

(b) If the man claimed that the revolver was put in his pocket by someone else, or that he never had possession of the revolver, the statement of a witness that he gave or sold the revolver to the accused would corroborate the evidence of the accused's ownership of the revolver by the finding of it on his person. If the defendant claimed that he had no knowledge of how the revolver came into his possession, or that someone must have put it in his pocket, the testimony of a witness that he knew that the defendant had no revolver in his pocket at the time of the shooting by reason of his holding his coat, or some similar evidence, this would tend to corroborate the evidence of the defendant as to the revolver.

(c) The fact of having a loaded revolver with a shell exploded, on his person, would be circumstantial evidence tending to prove his guilt; if unloaded or unexploded, this would be circumstantial evidence tending to prove his innocence, as far as that revolver was concerned.

496.

Q. What is an emergency within the jurisdiction of the Police Rules? Give an example.

A. An emergency is a sudden occasion, a pressing necessity, something that calls for immediate action. Example: A fire, for instance, may break out near where the officer is, in which event he should immediately send in the proper alarm, if necessary notify the officer in charge of the station, and in the meantime, take such action as the emergency may require. It may be a fire in a ramshackle tenement or hotel; emergency might require that the officer rush upstairs, rouse the inmates, acquaint them with their danger, and help them to escape injury.

He might chance to come across a burglary or a riot, in which cases emergency might suggest that he summon help, cover the avenues of escape, quietly enter the house to capture the burglars, and the officer may use a revolver in case he is attacked or the burglars are escaping.

497.

Q. In regard to election officers, when are you required to notify the Election Commissioners of certain conditions or occurrences? Also notify the Station?

A. (1) If any election officer is under the influence of liquor.

(2) If any election officer omits his duty in any respect or does it contrary to law.

(3) If at any time there are less than four election officers on duty in any booth at the same time.

Rules of Elections - 1922.

498.

Q. What is an "Attempt"?

A. An act done with intent to commit a crime and failing in its commission.

499.

Q. What is necessary to make an "Attempt to commit a crime?"

A. (1) The intent to commit the crime.

(2) The performance of some proximate act towards the commission of the crime.

(3) Failure to consummate the crime intended.

500.

Q. What would you be required to prove in order to convict for non-support?

A. (1) That they are married.

(2) That he failed to support or provide adequate support.

(3) That the defendant had the ability or earning capacity to provide for such support.

501.

Q. In what ways could a person be guilty of a felonious homicide?

A. To kill "by the act" as an assault; to shoot or to stab.

To kill "by procurement" causing an innocent person to kill another.

To kill "by an omission" where the person killed comes to his death by reason that the culprit failed to provide ordinary measures for safety, or through negligence.

502.

Q. X breaks and enters the house of Y, believing it is his own home. After entering, he discovers his mistake, but on his way out he sees a valuable diamond ring on a table which he appropriates and then leaves. What offense is he guilty of?

A. He is guilty of larceny in a building, if no one is home, or if all were asleep, otherwise he is guilty of simple larceny. Byrnes Quiz. 111 Mass. 429.

503.

Q. Suppose A was before the municipal court and he asked for a continuance. He was granted the continuance and was committed to the Charles Street Jail for lack of bail. Remember he is not convicted. Later he escapes from the Charles Street Jail before he is tried. Has he committed any offense in escaping?

A. Yes. Whoever escapes or attempts to escape from any penal institution shall be pursued and recaptured and sentenced up to 5 years in the institution from which he escaped or was committed. 268 - 16 -- 1925 - 53.

504.

Q. The Copley Plaza Hotel has no night watchman. Is this any offense?

A. Yes. Any hotel, lodging or boarding house that has 100 or more sleeping rooms must have at least two (2) watchmen on duty between 9 P.M. and 6 A.M. Such hotels having 50 or 100 rooms, one (1) watchman during the night between said hours. Penalty on Manager, Keeper, etc. - not less than $50 or more than $1000. Chapter 143, section 44-46.

505.

Q. There is an epidemic of officers being shot in your city. What would you recommend as a means to stop or prevent this, you being a superior officer?

A. I would recommend that all officers have a thorough course in jiu jitsu, wrestling, boxing, and all methods of disarming an assailant. I would also include instruction in the use of the revolver, pistol, rifle, and shot gun, and see that all officers had reached a good state of proficiency in these arms.

I would also make it imperative that all officers remain on the street and properly patrol their routes as they may in this manner be of assistance to a brother officer, or in catching a gun-man who has shot someone else. I would have the sergeants patrolling the whole division in an auto with one or two experts with revolvers or shot guns, whose orders would be to hold up all suspicious or suspected persons seen abroad. I would continue these methods until the epidemic had ceased or the perpetrators were arrested.

506.

Q. The Italian Counsul is stopped by a police officer for a violation of the automobile law, and the officer discovers that he is also carrying a revolver on his person. The officer arrests him for "carrying a revolver on his person without a permit" and brings him to the station. The consul claims that as he is a representative of a foreign nation, he is exempt from the law on concealed weapons and autos. What would you do in this case if you were in charge of the station?

A. I would book him for the offenses charged. A foreign consul does not come within the degree of exemption as to foreign officials that would make it legal for him to carry a revolver. He is entitled to the courtesy and respect of the nation as such, but he is entitled to no more privileges than any other foreigner. I would tell the officer to prosecute him for carrying the revolver and also the violation of the automobile law for which he stopped him. Moores International Law.

507.

Q. John Martin is arrested for drunkenness. Of what right must Martin be notified by the officer in charge, if Martin takes advantage of this right. Would the arresting officer be liable in any manner?

A. The officer in charge of the place of custody in which a person arrested for drunkenness is confined, shall inform him when he has recovered from his intoxication of his right to make a written statement and request for release under the preceding section, and an officer making an arrest for drunkenness shall not be liable for illegal arrest or imprisonment, if the person arrested is so released at his request. Chap. 272, sect. 45-46.

508.

Q. Who may issue warrants for the arrest of persons charged with an offense, which warrants could be served by you?

A. The Governor, justices of the Supreme, judicial, Superior, or district courts, trial justices, clerks, assistant clerks, temporary clerks, or assistant temporary clerks, paid by the county, presidents of court martials, and summary court martials.

It seems that under the State Constitution, the Governor and his Council, the Senate and the House of Representatives have power to issue warrants of arrest for certain offenses committed in the presence of these bodies. 276- 21; 218-33; 33-175; Art. 10-11 House of Representative Constitution.

509.

Q. Two men have been stabbed to death. (a) State what facts you would endeavor to procure. (b) How would you proceed to procure information relative to the affair, which would clear up the case?

A. (a) I would try to ascertain who they are, whether or not it was a suicide pact and whether or not they killed each other in a mutual combat or whether both were killed by someone else.

(b) I would compare the wounds on each with the weapons found on or near each man to find out whether or not the wounds were self-inflicted, and make inquiries as to what relation the men were to each other, whether friends or enemies; whether or not either one had money or valuables on his person and who had knowledge of this; and I would trace their movements and associations from the time of receiving the money or valuables and try to find out who they were with when last seen alive, Follow out any other clue which the information gained in this manner may lead to, and arrest the guilty parties if possible.

510.

Q. Is a Bail Commissioner a magistrate within the meaning of the statute on bail?

A. Yes. The term "Magistrate" in any section of the statutes, which provides for admitting persons to bail in criminal cases, shall be construed to include a bail commissioner, so far as to give him authority to admit prisoners to bail. Chapter 276 - sect. 82.

511.

Q. You arrest W.W., a man, for assault and battery on another man. You make your complaint in court and the injured party comes forward and acknowledges satisfaction. Could the complaint be discharged even though you are the complainant?

A. Yes. If the assault is not a felonious one or upon a sheriff or police officer, if the injured party appears before the court and acknowledges in writing that he received satisfaction for his injuries, the court may in its discretion, upon payment of costs of court, dismiss the case. This acknowledgement of satisfaction is forever a bar to a civil action for such injury. Chap. 276 - sect. 55-56.

512.

Q. Mention several possibilities that might arise as a police officer pursues a felon, and tell the officer's duty under these circumstances.

A. (1) It is possible that the felon might take refuge in a building, locking the doors and refusing to open for the officer. It would be the officer's duty to break open the door and make the arrest.

(2) It is possible that the felon would refuse to stop or offer resistance to the officer so that the officer could not make the arrest. It would be the officer's duty to use any force necessary to overcome this resistance or refusal to stop, and in a serious felony, the officer might shoot to stop the escape of a fleeing felon.

(3) It is possible that the others might try to obstruct or prevent the arrest of the felon. It would be the duty of the officer to use any force necessary to overcome such obstruction or prevention.

(4) It is possible that in pursuit of the felon, he might enter another city or town or county. It would be the officer's duty to follow him wherever he might go in Massachusetts and effect the arrest.

(5) It is possible that the felon may make good his escape. In this case, the officer should immediately notify the station, giving a full account of the crime, and a full description of the felon, or any other information that would be of assistance in capturing him.

513.

Q. How much force may a person use in self-defense?

A. When a person is unlawfully attacked, without fault on his part, he may use such force as is necessary to defend himself and meet and repel the attack, under circumstances as they reasonably appear to him.

514.

Q. What is the difference between "Breaking and Entering" and "Larceny" in a building?

A. In "Breaking and Entering" there must be either an actual or constructive force used to gain entrance to the building. In "Larceny" in a building, no force is used to gain entrance, but the property must be under the protection of the building, that is, it is not in the possession and charge of any person, so as to constitute the crime of larceny from the person. Comm. vs. Lester. 129 - Mass. 101.

515.

Q. State what you would do in the following case: An electric car and a taxi cab collide. The accident is witnessed by a patrolman. You have a patrolman assisting you on desk duty. Passengers in the taxi cab are injured.

A. I would immediately send the ambulance, (if no other patrolmen were available, I would send the patrolman assisting me on desk duty, instructing him to render every possible assistance), and if necessary, call headquarters for extra ambulances to care for all injured persons. As soon as possible, I would obtain the names of all injured persons with the names of their nearest relatives, for notification. I would detail patrolmen to keep traffic moving, and have the taxi cab towed out of the traffic lane if it were disabled. After receiving the report of the accident from the officer witnessing it, I would notify headquarters by telephone. I would then enter the report on the journal and make out a police report of motor vehicle accident as required by G.L., chap. 90, sects. 26 and 29. Since a taxi cab was involved, I would make out a "Special Motor Vehicle Accident Report", and have these forms forwarded to the office of the Superintendent (in Boston). If I found that the accident was caused by one or both of the operators violating the law, I would instruct the officer to prosecute. I would also instruct the officer to keep all of the necessary facts - time, location, persons injured, and witnesses - in his pocket diary for future reference.

516.

Q. You, a sergeant, are making a search of the rooms of the Acme Social Club, on a gaming warrant. You find a game in progress in one of the rooms, with several men gaming and also some being present, not gaming in this room. In another room you find several more men not gaming, and evidently never were gaming in the other room. Who should the sergeant arrest and under what charge?

A. I would arrest the keepers of the game, all those assisting in the keeping of the game, such as the janitor, doorkeepers, watchmen, or otherwise, and all persons found gaming in any form, all those being present whether gaming or not, if gaming implements are found. (Search warrant on gaming.)

I would arrest all persons found in the building or apartments occupied by said club if gaming implements were found whether they were in that particular room or not. To charge persons with "being present where gaming implements were found" does not mean that they must be found in the same room with the implements of gaming, or the persons gaming; but somewhere in the house or building searched. 161 Mass. 281.

518.

Q. (a) Give two reasons or motives for the commission of the crime of arson.

(b) Give three reasons or motives for the commission of the crime of homicide.

A. (a) The owner of the house might burn it while occupied by another, for the purpose of obtaining the insurance; revenge or spite.

(b) Greed or gain; revenge or anger; sex jealousy; fear of disgrace; moral depravity or perversity; and insanity.

519.

Q. Suppose a woman came to you on the street and said she was afraid her husband would assault her that evening; that he had threatened to do so on leaving her in the morning, and she expected he would carry out his threat. What advice and assistance would you give her? On what theory would you interfere?

A. I would tell her she could apply to the courts for a process to bring her husband before the courts to have him bound over to keep the peace. I would detail an officer to be in the vicinity when the husband returned to arrest him if a warrant had been granted, or to warn him about assaulting his wife, and if such a crime was committed in the officer's presence, for him to arrest the man without a warrant. A husband has no legal right to chastise his wife, and I would have the officer interfere on the theory of the prevention of a crime.

520.

Q. D gave P $20 in payment for a suit of clothes, the price of which was $21.55. P took the $20 and insisted D owed him the balance. D threw P on the floor and took back the $20 by force. Was D guilty of any crime in so doing?

A. No. D could use reasonable force to regain his property, but he would be liable if he used excessive force. P did not live up to the agreement which was that D would pay $20 for the suit, therefore when P demanded the other $1.55, D was fully justified in getting his $20 back if he did not want to pay the rest. Com. vs. Donahue 148 Mass. 529.

521.

Q. (a) What elements must be present to make a crime forgery?

(b) Tell all the ways in which the crime may be committed.

(c) What action should a policeman take and what care should be exercised if informed by a man that a third party had signed the complainant's name to a receipt for three tickets for a reviewing stand which were subsequently sold for $10.

A. (a) The elements of forgery are: (1) That a certain instrument was made. (2) That such instrument is false. (3) That the accused forged it. (4) That the facts and circumstances of the case indicates the intent of the accused thereby to defraud a certain party. The last one is always essential to all cases of forgery.

(b) Forgery may be committed by making a false writing, by altering an existing writing, by filling in a paper signed in blank, or by getting a person to sign one document believing he was signing another, or by signing another's name to any document. In all cases, there must be an intent to defraud or the act must be done in prejudice to another man's rights.

(c) Make sure that the complainant is accountable for the tickets, and secure the receipt as evidence, and also that the defendant knew the complainant was accountable for the tickets.

522.

Q. A and B were indicted and tried together for conspiracy to defraud. B was arrested first and A, learning of that fact and fearing B would confess, wrote a letter to B referring to the conspiracy, urging B not to confess and promising to furnish the funds for his defense. A guard chanced to see the letter and took possession of it before B had a chance to read it. This letter was introduced at the trial in evidence against B's objection. There was also some slight corroborative evidence introduced at the trial, but not alone sufficient to convict. Can either or both be convicted?

A. One accused of a crime has a legal right to face his accuser. This was a joint crime. The writer of the letter, impliedly admitted he was guilty. The confession was properly obtained, and is admissible in evidence against the man who wrote the letter; but it is not admissible against B. The confession was not made in court and B afforded no chance to face his accuser. B is entitled to an acquittal. As this is a joint crime, A is also entitled to an acquittal. 122 Mass. 43.

523.

Q. B, a resident of Massachusetts, visits a relative in Vermont. The relative accused B of stealing a watch belonging to the relative. B denies this and a quarrel follows, during which B killed his relative. B fled to Massachusetts, where he was arrested. On being searched, the police found the watch. B confessed to having stolen the watch from his relative, and he was indicted in Massachusetts for murder and the stealing. Could he be convicted?

A. For the purpose of punishment of crimes and as regards jurisdiction, each state is considered a separate nation. Larceny in one state is generally held to be larceny in any other state where the criminal may carry the goods. B may be convicted of the larceny of the goods by the courts of Massachusetts, but this state cannot try him for the murder.

524.

Q. What is the difference between a crime and a tort?

A. A tort is an actionable breach of duty towards an individual.

A crime is a punishable breach of duty toward the state.

525.

Q. (a) A is riding a bicycle at a rate of speed slightly higher than that prohibited by law; he accidently runs over and kills B. What offense?

(b) C, in attempting to rob D, accidentally kills him. What offense at common law?

A. (a) No offense - simply an accident in regard to the killing. This is simply Mala Prohibita; to be manslaughter it must be Mala in Se. Of course he could be complained of for "violation of a city ordinance in regard to the speeding".

(b) Murder - being the commission of a felony and causing the death of a person makes the crime murder, and in this case murder in the first degree, if the robbery was completed.

526.

Q. D believes that X, the governor of a state, is a hindrance to the state's development, and solely for the purpose of benefitting the state, kills X. What offense?

A. He is guilty of murder, because D's purpose of benefitting the state is no excuse for killing a person.

527.

Q. A owns a newspaper; B owes him $100, C owes B $200, which he refuses to pay. A duns B for his $100, and B remarks to A that if C would pay him (B), he would pay A his $100. A and B then agree that in order to make C pay, B shall prepare an article characterizing C as a "dead beat", and that A will publish it in the paper. The article is neither written nor published. What offense, if any?

A. A and B are guilty of conspiracy to commit libel. Though no libel has been committed, as nothing has been published or written about C, they are still guilty of conspiracy.

528.

Q. (a) An infant of 10 years kills another. Is he liable? (b) Can a person who is insane on one subject commit a crime? What is the test?

A. (a) An infant between the ages of 7 and 14 is prima facie presumed to be incapable of committing a crime, but this may be rebutted by evidence of his intelligence and capacity. (b) Yes. The test is that it must be clearly shown and proved that, at the time of the committing of the act, the party accused was laboring under such defect of reason from disease of the mind as not to know the nature and quality of the act, or that he was doing wrong.

529.

Q. (a) A advises B to forge C's name to a note, and A also advised D to kill E. The offenses are commited by B and D pursuant to the advice. What is A's guilt, and in what degree?

(b) X, knowing of the commission of the aforesaid crimes, aids B and D to escape. What crime does X commit?

(c) Suppose in the last question X was the wife of D. What crime does she commit?

A. (a) A is guilty of "accessory before the fact" to B's forgery and the murder committed by D.

(b) X is an "accessory after the fact" to B's and D's crimes.

(c) She would not be an accessory after the fact in D's crime because a wife cannot be an accessory after the fact to her husband's crime. She would be guilty of accessory after the fact to B's crime, unless she could show coercion on the part of her husband.

530.

Q. (a) X calls Y a liar, and in the heat of a passion caused thereby, Y immediately kills X by shooting him. What offense?

(b) Suppose X wantonly felled Y with his fist, and Y had killed as before, What offense?

(c) Suppose in (b) X and Y had been separated after Y was knocked down, and Y smarting over the injury, had gone after a gun to kill X, and returning 30 minutes after, did kill X. What offense?

A. (a) Murder. Calling a person names is not enough provocation to reduce it to manslaughter if he kills the man.

(b) Manslaughter. In this case the fact that Y was assaulted and knocked down would be adequate provocation to reduce the killing from murder to manslaughter if it was done in the heat of passion, even though Y intended to kill X.

(c) Murder. Because Y had ample time to cool off (Cooling time) his passion, and if after such cooling time, he then kills X it is deliberate, premeditated, and with malice aforethought.

531.

Q. (a) A attempts to strike with his fist B, who is unconscious. A's arm is arrested before the blow falls. What offense?

(b) C points a gun at D which C knows in unloaded, but which D believes to be loaded. C threatens to shoot and kill D. What offense?

(c) Under these circumstances, believing it to be necessary to save his own life, D kills C. What offense?

A. (a) A is guilty of an assault.

(b) Assault on D is the offense.

(c) No offense. D is justified in defending himself from death or serious injury even if he kills C, provided there was enough cause for him to believe his life was in danger. The fact that the gun was not loaded does not make any difference provided D believed it was loaded.

532.

Q. (a) A butler drinks a bottle of his master's wine, which is in his care. What offense?

(b) A servant is sent to the bank to deposit to his master's credit a check payable to the bearer; on the way the servant meets his own creditor to whom he gives the said check in payment of his own debt; the servant then himself enters the deposit in the bank book and returns it to the master. What offense?

(c) Suppose the servant had been directed to cash the check, and after doing so, had misappropriated the proceeds. What offense?

A. (a) Larceny. (b) Larceny of the check valued at $200, etc. (c) Embezzlement, which is larceny in this state.

533.

Q. (a) A writes a letter to the prosecuting attorney falsely and maliciously accusing B of larceny, and requesting the issuance of a warrant for B's arrest. Is A guilty of libel?

(b) Suppose the prosecuting attorney knew the complaint to be false, but causes the warrant to be issued, and B to be arrested. Is any crime committed by A or the prosecuting attorney?

A. (a) Yes. Whoever knowingly accuses a person of committing a crime by writing such accusation to anyone is guilty of libel.

(b) Both are guilty of "malicious prosecution". If either one swears to the complaint, they are guilty of perjury.

534.

Q. A has unlawful sexual intercourse with his adopted daughter. B has unlawful sexual intercourse with his stepsister, no blood relationship. C had unlawful sexual intercourse with his own stepdaughter. Are any or all guilty of incest?

A. No. None of these are guilty of incest within the meaning of the G.L. 272, section 17. To be guilty of incest, they must be so related by consanguinity (blood) that a marriage between them would be unlawful.

535.

Q. A, with intent to break and enter the home of B, had an impression made of the lock and had a key made to fit it. Would he be guilty of an attempt to commit burglary?

A. Yes. Any act that leads directly to the intended crime may go beyond mere preparation and be an overt act sufficient to constitute an attempt. Somewhat like the attempt to poison by putting a drug in the intended victim's cup, A's taking of the impression and getting the key made were held sufficient to warrant conviction of the attempt charged. 26 Ga. 493.

536.

Q. Lord was indicted for causing the death of one of his children, a helpless cripple, by starving it. He pleaded that he did not do anything to the child, but simply let it alone. Is this a defense?

A. No. He is bound to provide food for his minor child, and also he is bound to care for it. He did neither. He is guilty.

537.

Q. It is suspected by the police that a certain person is guilty of a felony and that the necessary evidence may be obtained by searching a certain house, not occupied by the person suspected. If the occupant refuses to allow the search to be made, state in detail the legal requirements necessary to make such search. Explain fully all details in connection with such search, and the securing of such evidence.

A. If the articles to be searched for are anything that is prohibited by law, I would apply to the courts for a search warrant for such articles, setting out and properly describing them. If the warrant was granted, I would go to the house in question and described in the warrant, and search for the articles named, seize the same, arrest the person in whose possession they were found if so ordered in the warrant, and make a return of my doings and the articles seized on the search warrant, to the court that issued it. If the evidence was no prohibited article, I would apply to the courts for a subpoena (duces tecum) for the owner to compel him to bring such articles or documents into court. If the case was murder and there was cause to believe the owner of the house would do away with the evidence, an efficient officer might go to the house and seize the evidence anyway, even if such seizure is illegal, as evidence is admissible in evidence no matter how it was obtained. See Tucker case.

538.

Q. What is the rule as to capacity to make a person criminally responsible?

A. If he has capacity and reason sufficient to enable him to distinguish between right and wrong as to particular acts he is then doing, or knowledge and consciousness that the act he is doing is wrong and criminal, he would be subject to conviction and punishment.

539.

Q. What would you be prepared to prove to obtain a conviction in a non-support of wife case?

A. (1) That they are married.

(2) That he failed to support or provide adequate support for his wife.

(3) That the defendant had the ability or earning capacity to provide such support.

540.

Q. What must you be prepared to prove to convict a defendant of a robbery charge?

A. (1) The taking of the goods.

(2) The felonious intent.

(3) That the taking was from the person or presence of the person robbed.

(4) That such taking was by force, violence, or putting into fear.

541.

Q. What must you be able to prove to convict a person of murder?

A. (1) That the person alleged to be killed is dead.

(2) That he died as a consequence of an injury received by him.

(3) That the injury was the result of an act of the accused.

(4) That the death took place within a year and a day of the commission of this act.

(5) That such killing was with malice aforethought, or extreme cruelty or atrocity, or in the commission of a felony.

542.

Q. What distinguishes "fraud" from "larceny"?

A. Fraud involves bargaining, the transaction of some business, the practice, perversion, or pretended practice of some profession. The fraudulent transaction involves some negotiation with the victim. Larceny is committed direct, not by negotiation, but by force or secrecy. The larcenist employs means that are obviously dishonest, but relies upon caution and cunning to escape detection in this act.

543.

Q. What is the difference between "breaking and entering" and "larceny in a building"?

A. In "breaking and entering" there must be actual or constructive force used to gain entrance into the building accompanied with intent to commit a felony therein.

In "larceny in a building" no force is used to gain entrance and the goods stolen must have been under the actual protection of the building. That is, not under the care or in the possession of any person when stolen.

544.

Q. (a) What is the difference between murder and manslaughter?

(b) In what respects do they compare?

A. (a) They differ in that murder is committed with deliberate premeditated malice aforethought, or with extreme cruelty or atrocity, or in the commission of a felonious offence. In manslaughter these elements are missing, it being done in the heat of passion caused by adequate provocation, or by accident in doing some unlawful act not felonious.

(b) They compare in that both crimes are unlawful and there is a felonious killing of a human being.

545.

Q. (a) Robbery and larceny from the person - in what respects do they differ? (b) Compare.

A. (a) They differ in that the larceny in robbery is committed with force, violence or putting into fear, while in larceny from the person these elements are missing, it being done by sleight of hand or deftness. (b) They compare in that both crimes are felonious and there is a taking or stealing of the goods from the person of another.

546.

Q. What are the elements necessary to prove the crime of "assault and battery"?

A. (1) The touching, hitting, etc.
(2) The malice or intent.
(3) The resulting injury.

547.

Q. What is meant by "Police Power"?

A. Police power is the authority vested in the legislature of the state or nation to enact laws to preserve "public order", "public health", "public safety", "public morals", and the prevention, detection, and punishment of crime.

548.

Q. What is meant by the term "Peace Officer"?

A. He is the ministerial officer charged with the preservation of the public peace and the enforcement of the law rather than interpretation of the law.

549.

Q. X catches a thief stealing certain goods, and in order to catch the receiver, orders the thief to continue and sell them to the receiver. The thief does so. If the receiver buys the goods well knowing that they were stolen, because of previous agreement to buy all the goods the thief brought to him for sale, with what crime or crimes would you charge him (that is, the receiver), and why? Would he be a receiver of the stolen property under the law?

A. He is guilty of conspiracy to receive stolen goods, having agreed to receive what the thief had stolen. He is not guilty of receiving stolen property, as the goods ceased to be stolen after the thief was caught with the goods and then told to sell them to the receiver. When X ordered the thief to sell the goods, it was done with his consent, so the receiver could not be guilty of receiving the stolen goods. 78 N.E. 169. 185 N.Y. 497.

550.

Q. A threatens B, a woman, that if she does not allow him to have sexual intercourse with her, he will shoot her husband the next day. B, the woman, having fear that A will do as he says, submits to A's demands. Could A be convicted of rape under these conditions?

A. No. Threats of future harm if the woman did not submit to sexual intercourse are not sufficient to show that she acted under compulsion or enough fear to make it without her consent. Clark. Crim. Law. p. 247, footnote 29.

551.

Q. A police officer arrests A for larceny of ten overcoats from B, and he has the coats with him at the time of the arrest. (a) What is the duty of the police officer concerning the coats? (b) How can B get his overcoats back?

A. (a) The police officer must take the coats along with the person arrested to the station and hold the coats for evidence, marking them with a tag for ownership, etc. If a warrant is granted in court for larceny, he should annex a schedule to the warrant of the overcoats seized.

(b) After the case is completed the court may order the coats returned to B, or he can get them from the police officer, or at the station by proving ownership and giving the officer a receipt for the same. If A was not convicted, and there was a question of ownership, B could apply to the court for a writ of Replevin to determine ownership.

552.

Q. A police officer overhears B say to C,"I want you to commit perjury in a case that is coming up for trial tomorrow". The police officer arrests B, who wants to see the warrant for the arrest. You, as a lieutenant come along at the time. State in detail what you would do and what action you would take in regard to the officer?

A. I would tell B that the officer is perfectly justified in arresting B without a warrant as he had committed a felonious offence; "inciting to commit perjury", 268 - 3. I would tell the officer to get C's name and address to use in court as a witness. If B and C had agreed that C was to commit perjury there is a conspiracy for both, and I would have the officer apply for a warrant against both for this offence. Tell the officer to complete his arrest and be on the alert to obtain any other evidence that would be of value in the case. Make notes in his pocket manual for future reference.

553.

Q. What advice would you give to any patrolman under your command who asked you to express to him your opinion as to the best way to prepare for an examination for appointment to sergeant in your department?

A. I believe that, in order to succeed in any examination, a candidate must have the following qualifications: (1) The ability to read, dissect, and properly interpret questions put to him by the examiners. (2) A thorough knowledge of the laws, ordinances, regulations, administration, and report writing. (3) The ability to put this knowledge on paper in as intelligent a manner as possible.

It seems that everyone is anxious to gain the second but overlook the first, and third. Men know the law, but cannot apply it, and put it on paper. I believe he can accomplish this, by studying books where all phases of police procedure are analysed, simplified, and explained in such a manner as to make things clear to him. He should keep himself up-to-date by reading up-to-date newspapers and editorials concerning police problems. He should be observant when attending court to learn court procedure, and the little points of law continually brought out. Above all; study and continue to study. He should be jealous of his reputation and conduct and show exceptional efficiency in his duties as a police officer.

554.

Q. An officer tells you he saw a man commit an act which he, the officer, knows to be a crime, but for which there is no penalty provided for by the General Laws. What would you tell him to do?

A. I would tell him to apply to the courts for a warrant or summons, as the case may be, and if he was convicted and no penalty provided by statute, the court could impose such sentence, according to the nature of the crime, as conforms to the common use and practice in this commonwealth. 279 - 4 A.

555.

Q. (a) What is the definition of "temporary or transient business" as set forth in the General Laws?
(b) Distinguish between a "transient vendor" and a "hawker and pedlar"?

A. (a) Any temporary exhibition and sale of goods, wares, or merchandise which is carried on in any tent, booth, building, or other structure, unless such place is open for business during the usual business hours for a period of at least 12 consecutive months.

(b) A transient vendor is one who engages in a transient or temporary business in one locality or in travelling about from place to place, selling goods, wares, or merchandise in a tent, booth, or building. 101 - 1 and 13.

A hawker and pedlar is one who goes about from town to town, or place to place in the same city or town selling or bartering, or carrying for sale or barter or exposing therefor, any goods, wares, or merchandise either on foot, on or from any animal or vehicle.

556.

Q. State if you would arrest without a warrant for any of the following crimes not committed in your presence? (a) Conspiracy to commit burglary. (b) Adultery. (c) Forgery of a promissory note. (d) Larceny of an auto valued at $40. (e) Libel.

A. (a) No, a misdemeanor, a warrant is necessary. (b) Yes. A felonious offence. (c) Yes. A felonious offence. (d) Yes. A felonious offence. (e) No. A misdemeanor, a warrant is necessary.

557.

Q. (a) What is an "alias warrant"?
(b) What is meant by a "plureis warrant"?
(c) What is a "warrant of distress"?

A. (a) A second or further warrant issued after a former warrant has been returned without service, and for the same offence.

(b) A third warrant issued after the first and second (alias) warrants have been returned without service, and for the same offence.

(c) A warrant issued by a court where judgment is rendered against corporations upon an indictment or complaint to compel payment of the penalty with interest. Also issued by the Town Treasurer or Collector of Taxes, directing the distraint of property, or to take the body of persons delinquent on taxes. They are served by the sheriff, deputy sheriff, or constables.

558.

Q. An incendiary fire took place in your city. What official would have authority to summon witnesses in order to ascertain the facts and circumstances surrounding the origin of the fire?

A. The State Fire Marshal, or any persons authorized by him. In Boston, the Fire Commissioner or any person authorized by him. They can summon and examine on oath administered by them, any person supposed to have knowledge of any material fact concerning such fires. 148 - 3.

559.

Q. A visits B's home at 9:00 P.M. They both have supper and afterwards lie down and fall asleep. A wakes up before B and steals a clock from the mantle valued at $50. B wakes up later and misses the clock. What crime has A committed and why?

A. Larceny in a building. The fact that B was asleep at the time of the taking of the clock, puts all articles in the house under the care of the building. There was no burglary because there was no breaking in, with the intent to steal. 266 - 20.

560.

Q. (a) What facts should be given the medical examiner when he is notified that he is wanted at a certain place where there is a dead body of a person who has died under suspicious circumstances?

(b) Who, under the law, takes charge of all money and other personal property found upon or near the body under these circumstances?

A. (a) Give him all of the facts obtained by the officer who found the body, the name of the deceased if known, the approximate age, the place where the body was found, the circumstances of the death, the names of all persons who were present or who may have knowledge of the affair, with the name and station of the officer who found the body, the officer who notified the medical examiner, and the officer who delivers such notification. A memorandum of such information should be delivered with the body, if taken to the morgue by the police. In Boston, a written report of all the facts and information obtained must be forwarded to the superintendent and by the superintendent to the medical examiner within 24 hours.

(b) Under the law, the Medical Examiner takes charge of all money or other personal property of the deceased found on or near the body.

561.

Q. What is the duty of every police officer who is assigned to duty at voting booths on election day?

A. To preserve the public peace, prevent disorder, preserve the integrity of the ballot, guard the ballots and ballot box before and after the election, enforce all election laws, prevent intimidation or interference with voters going to and from the voting booth, see that all party workers are at least 150 feet away from the voting booth, obey the orders of the warden in matters concerning arrests for disorders in the voting booths, and one officer must be present in the booth at all times to prevent illegal voting.

562.

Q. (a) What motor vehicles are required by law to have mirrors or reflectors for the purpose of obtaining a view to the rear?

(b) State the maximum speed allowed for a school bus.

A. (a) Every automobile used for the carriage of passengers for hire, and every commercial motor vehicle or motor truck, so constructed, equipped or loaded, that the person operating same is prevented from having a constantly free and unobstructed view of the highway immediately in the rear, shall have attached to the vehicle a mirror so placed and adjusted as to afford a clear, reflected view of the highway in the rear of the vehicle. 90 - 7.

(b) No person shall operate a school bus at a rate of speed greater than thirty miles per hour, while actually engaged in carrying school children. 90 - 17.

563.

Q. X, a police officer, was arresting B for a felonious offence, and B was willing to go with him peaceably, but X commenced to use an unlawful and unreasonable amount of force to effect the arrest. B resisted and in the melee, killed X, the police officer. Was B justified or not? Suppose the arrest was unlawful, would that make any difference?

A. The making of a lawful or unlawful arrest may be made in such a wanton or menacing manner as to put the culprit in danger of life or serious bodily harm. In such a case, even the killing of the officer would be justified. But in an ordinary case of assault, this would not be justified, and it would be manslaughter, at least. In an unlawful arrest, he could use any force necessary short of actual killing to prevent the arrest.

564.

Q. What is meant by "Dutch Auction" or "Down Hill Sale"?

A. Any sale by public outcry where property is first offered at a stated price and thereafter successively or gradually at lower prices, until an acceptor or purchaser is found and "auctioneer" shall include any person who personally sells or offers for sale any property by the above methods. 100 - 1. He must be licensed as an auctioneer.

565.

Q. Five years ago, Jones robbed Smith of his diamond ring, for which he was convicted and sentenced to State Prison. Jones is now out on parole, and within an hour Smith saw Jones with his ring on his finger and he demanded the ring from Jones and he refused to deliver it. Smith wants his ring and demands that you arrest Jones. What would you do?

A. I would arrest Jones if the facts were as stated. He is guilty of a felonious offence. Whoever having been convicted, either as a principal or an accessory of a burglary or robbery, has in his possession money, goods, bonds, bank notes, or any other thing of value or property of another, taken by means of said crime and refuses to deliver the same on demand of the owner, State Prison five years. 266 - 21.

566.

Q. Name three conditions under which a person may refuse to assist an officer in making an arrest when asked to do so.

A. (1) When such request is not made in the name of the commonwealth. (2) When such arrest is an illegal one. (3) When he is physically unable to assist the officer.

567.

Q. (a) What is meant by a "Question of Facts"?
(b) What is meant by an "Issue of Facts"?

A. (a) A fact which must be determined by the evidence submitted. It is determined by the jury, or by the judge in the lower court.

(b) All statements or facts which are affirmed on one side and denied by the other. Statements made by the prosecution and denied by the defense. Any fact which is before the court which is in dispute.

568.

Q. A and B meet in a dance hall. A threatens and offers to fight B. B refuses but says he will go home and change his clothes and meet A in a vacant lot and fight it out there. They later meet and fight it out, and after a few minutes B says he has had enough and wants to stop. They stop and shake hands and apparently are friends. Would the fact that they agreed to fight be a good defense to the charge of assault and battery?

A. No. The wrong in assault and battery is that it is an offence against the public as a whole. It is a breach of the peace and punished as such. Their consent to fight makes no difference.

569.

Q. You are called to the house of John Smith on a complaint of disturbance, and when you arrive there, you see John Smith and his wife. Mrs. Smith is screaming with pain and holding her face. You call a doctor, and when he arrives he states that she has been burned about the face with vitriol and will be permanently disfigured for life. Mrs. Smith says her husband threw vitriol in her face. A child said that the husband threw a glass of water in Mrs. Smith's face. If you arrest John Smith what crime or crimes would you charge him with? Would they be felonies or misdemeanors?

A. If after investigation of the case, I was satisfied that Smith threw vitriol in his wife's face with intent to maim, I would arrest him and charge him with mayhem, a felonious offence. 265 - 14. The statement of the child about the glass of water simply bears out the fact that the husband threw something in the wife's face, the statement of the doctor is enough to prove that vitriol was used and also to the disfiguration. If, after investigating the case, I was satisfied that nothing had happened more serious than throwing a glass of water in the woman's face, I would not arrest, but would have the wife make complaint in court against the husband, assault and battery, a misdemeanor. If the neighborhood was in an uproar on my arrival from the fact of Smith abusing his wife, I would arrest him without a warrant, for a disturbance of the peace, a misdemeanor.

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